REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION

GENERAL ASSEMBLY

OFFICIAL RECORDS: FORTY-SEVENTH SESSION

SUPPLEMENT No. 33 (A/47/33)

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I. INTRODUCTION

1. The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization was convened in accordance with General Assembly resolution 46/58 of 9 December 1991 and met at United Nations Headquarters from 3 to 21 February 1992. 1/

2. In accordance with General Assembly resolutions 3349 (XXIX) of 17 December 1974 and 3499 (XXX) of 15 December 1975 and decision 45/311 of 28 November 1990, the Special Committee was composed of the following member States: Algeria, Argentina, Barbados, Belgium, Brazil, China, Colombia, Congo, Cyprus, Czechoslovakia, Ecuador, Egypt, El Salvador, Finland, France, Germany, Ghana, Greece, Guyana, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Italy, Japan, Kenya, Liberia, Mexico, Nepal, New Zealand, Nigeria, Pakistan, Philippines, Poland, Romania, Russian Federation, Rwanda, Sierra Leone, Spain, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Yugoslavia and Zambia.

3. The session was opened by Mr. Carl-August Fleischhauer, Under-Secretary-General, the Legal Counsel, who represented the Secretary-General and made an introductory statement.

4. Mr. Vladimir S. Kotliar, Director of the Codification Division of the Office of Legal Affairs, acted as Secretary of the Special Committee and of its Working Group. Mr. Andronico O. Adede, Deputy Director for Research and Studies (Codification Division, Office of Legal Affairs), acted as Deputy Secretary of the Special Committee and of its Working Group. Ms. Christiane Bourloyannis and Mr. Vladimir Rudnitsky, Legal Officers, and Mr. Francesco Presutti, Associate Legal Officer (Codification Division, Office of Legal Affairs), acted as assistant secretaries of the Special Committee and its Working Group.

5. At its 153rd, 154th and 157th meetings, on 3, 4 and 6 February 1992, the Special Committee, bearing in mind the terms of the agreement regarding the election of officers reached at its session in 1981, 2/ and taking into account the results of the pre-session consultations among its member States conducted by the Legal Counsel, elected the Bureau of the Special Committee, as follows:

Chairman: Mr. Miroslav Potocny (Czechoslovakia)

Vice-Chairmen: Mr. Ernesto Martínez-Gondra (Argentina)
Mr. Saeid Mirzaee-Yengejeh (Islamic Republic of Iran)
Mr. Robert Rufus Hunja (Kenya)

Rapporteur: Mr. Aydin Sefa Akay (Turkey)

6. The Bureau of the Special Committee also served as the Bureau of the Working Group.

7. At its 153rd meeting, the Special Committee adopted the following agenda (A/AC.182/L.71):

1. Opening of the session.

2. Election of officers.

3. Adoption of the agenda.

4. Organization of work.

5. Consideration of the questions mentioned in General Assembly resolution 46/58 of 9 December 1991, in accordance with the mandate of the Special Committee as set out in that resolution.

6. Adoption of the report.

8. In accordance with paragraph 6 of General Assembly resolution 46/58, the Special Committee, having received requests for observer status from 55 permanent missions to the United Nations (Afghanistan, Albania, Australia, Austria, Bahamas, Belarus, Benin, Bolivia, Brunei Darussalam, Bulgaria, Burkina Faso, Cameroon, Canada, Chile, Côte d'Ivoire, Cuba, Ethiopia, Gabon, Gambia, Guatemala, Guinea, Guinea-Bissau, Haiti, Ireland, Latvia, Lebanon, Libyan Arab Jamahiriya, Malaysia, Maldives, Malta, Marshall Islands, Mauritius, Mongolia, Morocco, Mozambique, Namibia, Netherlands, Niger, Norway, Oman, Paraguay, Peru, Portugal, Republic of Korea, Senegal, Singapore, Sudan, Sweden, Thailand, Uganda, Ukraine, United Republic of Tanzania, Uruguay, Viet Nam and Yemen), took note of those requests and accepted the participation of observers from those Member States. 3/

9. At its 153rd meeting, the Special Committee established a Working Group of the Whole and agreed on the following organization of work: 2 or 3 meetings would be devoted to a general debate on all items concerning the mandate of the Committee; 11 meetings to the proposals relating to the maintenance of international peace and security that had been submitted to the Special Committee during its session in 1991, as well as those which might be submitted to it at its 1992 session; 9 meetings to the question of the peaceful settlement of disputes between States; 4 meetings were reserved. It was understood that this distribution of meetings would be applied with the necessary degree of flexibility, taking account of the progress achieved in the consideration of the items.

10. As to the topic of the maintenance of international peace and security, the Special Committee had before it the document entitled "New issues for consideration in the Special Committee", submitted by the Russian Federation (A/AC.182/L.65 and Corr.1), as set out in paragraph 14 of the report of the Special Committee to the General Assembly at its forty-fifth session, 4/ a further proposal by the same delegation entitled "Draft Declaration on the Improvement of Cooperation between the United Nations and Regional Organizations" (A/AC.182/L.72), as well as the proposal submitted by Bangladesh, Bulgaria, Lebanon, the Philippines, Romania, Seychelles, Uruguay and Viet Nam, later joined by Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Cyprus, Ecuador, Egypt, El Salvador, Guatemala, Honduras, India, Iran (Islamic Republic of), Malta, Mauritania, Mexico, Mozambique, Nepal,

Nicaragua, Nigeria, Pakistan, Panama, Paraguay, Peru, Spain, Sri Lanka, the Sudan, the United Republic of Tanzania, Vanuatu, Venezuela and Yugoslavia (see also paras. 110 and 122), entitled "Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter" (A/AC.182/L.73 and Rev.1). Under the same topic the Special Committee also had before it a "Proposal submitted by the Socialist People's Libyan Arab Jamahiriya with a view to enhancing the effectiveness of the Security Council in regard to the maintenance of international peace and security", 5/ as well as the working paper submitted by Cuba, entitled "Strengthening of the role of the United Nations in the maintenance of international peace and security" (see para. 123). As to the topic of the peaceful settlement of disputes between States, the Special Committee had before it the proposal submitted by Guatemala, entitled "Conciliation rules of the United Nations", which is contained in paragraph 5 of document A/45/742.

II. GENERAL DEBATE

Statement of the Rapporteur

11. In accordance with the decisions taken at its 153rd and 158th meetings on the organization of its work, the Special Committee held a general debate at its 160th to 162nd meetings, on 11 and 12 February 1992.

12. All delegations that participated in the general debate referred to the fundamental changes that had occurred recently in the international political climate, as well as to the Summit Meeting of the Security Council at the level of Heads of State and Government, which had taken place on 31 January 1992. In this new atmosphere, it was said, the United Nations had an increased chance to play its vital role in the field of the maintenance of international peace and security and the peaceful settlement of disputes. There was widespread agreement on the need to enhance the effectiveness of the Organization to ensure that it would successfully meet the challenges of this new era of international cooperation. In this connection, the Special Committee was regarded as an appropriate forum for discussing ideas towards this goal, and its past achievements were underscored.

13. A number of representatives addressed the important question of the most appropriate means for strengthening the Organization. Some representatives felt that a formal revision of the Charter of the United Nations was appropriate and necessary, while others believed that certain improvements in the mechanisms for its implementation and for the strengthening of the Organization could be accomplished through new instruments and administrative restructuring which did not call for formal amendment of the Charter.

14. Some representatives expressed the view that the time had come when it was possible to go beyond reflecting, in declarations of the General Assembly, the practice that had evolved in the Organization over the years.

15. Among the reasons for considering revision of the Charter, according to one of the representatives supporting this view, were the end of the cold war, the increase in the number of States Members of the Organization and the development of an international institution - the European Community - on which its member States are conferring a growing share of their sovereignty. The representative thus cautioned against the idea of informal modifications of the Charter through interpretation or reliance upon subsequent practice accepted on a case-by-case basis. While he noted that such an approach had proved useful in the past, it was his view that such an evolutionary progress was not effective and could indeed bring about uncertainties in the laws of the United Nations system, and thus would contradict the raison d'être of the Charter itself.

16. Another representative agreed that certain provisions of the Charter must be formally amended since, he believed, they were based on the realities prevailing in 1945, when the United Nations was founded, and which predated even the cold war. The view was also expressed by another representative that formal amendment of the Charter and streamlining of the Organization could indeed be achieved in selected areas where there were possibilities for reaching agreement. However, this did not mean that certain proposals for

amending the Charter, which appeared difficult at the outset, should be ignored completely. Another representative believed that, while an adaptation of the Charter to the new political, economic and social realities that were emerging in international life was proper and desirable, such an adaptation should not endanger the day-to-day life of the Organization. He suggested a gradual and flexible approach, combining the reform of the Charter and the full use of the possibilities afforded by the Charter itself for its adaptation without a formal revision of the Charter, an approach which should be guided by constant search for common understanding and in whose implementation the Committee might play an important role.

17. Among the suggestions made by the representatives supporting the formal amendment of the Charter were the elimination of discriminatory provisions, such as reference to "enemy States" in Articles 53 and 107 and the changes in the composition, functioning and other aspects of the Security Council's work. One delegation also suggested weighted voting to be taken into consideration in a distant future.

18. On the question of the composition of the Security Council, some delegations favoured an expansion of its membership by increasing both permanent and non-permanent seats to make it more representative, taking into account the need for wider participation in its decision-making process and having regard to the financial implications of its operations as a result of its decisions. One representative pointed out that unfortunately not all permanent members of the Security Council shared attitudes and commitments to important problems that the Organization faced. Furthermore, one representative observed that while certain permanent members supported a healthy and effective United Nations, they had refrained from meeting their financial obligations as a means of pressuring the Organization to carry out activities favouring their particular interests.

19. Referring further to the question of decision-making procedures of the Security Council, one representative was of the view that the veto power had created many problems for the Organization, and its abuse by the permanent members threatened the principles of collective security, democracy and sovereignty. According to the representative, the veto power, which could no longer be justified in the current world situation, still paralysed the Council, prevented it from meaningfully addressing certain long-standing conflict situations and made it still selective in its action, despite the end of confrontation between East and West.

20. Other delegations did not share the view that a revision of the Charter was appropriate. One representative stressed that the activities of the Security Council over the last 18 months had established precedents that greatly strengthened the capacity of the Organization to react to threats against international peace and security, and the representative believed that in the current situation it was odd still to hear arguments for changes in the functioning of the Security Council, arguments which had long since lost whatever power they might once have had, as well as proposals to amend provisions of the Charter that had never been resorted to. The representative made the point that the Charter had stood the test of time and had been flexibly interpreted as a constitutional document must be. It was his view also that the emergence of new nations was reflected in the current composition of the Council where the so-called third world had de facto a

cumulative veto. The representative further mentioned other evolutionary changes in the Charter, such as the recognition of self-determination as a right, the doctrine of non-intervention, the recognition that the abstention of a permanent member of the Security Council did not prevent the adoption of a resolution and the vastly expanded peace-keeping facilities of the Secretariat. The representative concluded that it could be ironic to change the system now that it was beginning to function appropriately. Another representative said that some of the ideas put forward, in particular those involving amendment of the Charter or radically changing the procedures of the Security Council, would not lead to useful results.

21. Another representative also made the point that the Charter, which was the cornerstone of a new world order, had in no way lost its timeliness and was still applicable for undertaking responses to the new non-military threats that had emerged since 1945, such as ecological threats, terrorism and the international drug trade. Therefore, he believed that it was necessary to harmonize the needs for increasing the efficiency of the work of the Organization and for maintaining the structure that had in practice shown usefulness. In his view, achieving reform in the United Nations would be helped by a post-confrontational reading of the Charter, putting in effect its fundamental provisions and rationalizing its structure, agenda and bodies. He was of the opinion that changes to the Charter could have far-reaching consequences, possibly leading to the collapse of the Organization. According to his view, attention should be drawn instead to forming preventive diplomacy structures, the early warning of crisis situations and to improving means to prevent acts of aggression. The new machinery, according to his view, could encompass information gathering and the adoption of preventive or coercive actions in accordance with the Charter. The representative suggested that consideration be given to a study of the specific components of such a machinery, taking into account Article 43 of the Charter on the agreements to make available armed forces to the Security Council, the role of the Military Staff Committee and the creation of regional subcommittees. In the quest for solutions to these problems the Special Committee could make an important contribution.

22. Another representative stated that the reasons that prompted the balance of powers enshrined in the Charter still retained all their relevance: they led to attributing competences in the field of international peace and security to the Security Council, an organ that is ruled by the principle of unanimity of the States that undertake the heaviest responsibilities in this domain. He drew attention to the risks involved for the efficiency of the Security Council, and of the United Nations as a whole, in modifying such balances through a reform of the Charter. A view was expressed, however, that the principles established in the Charter should be fully appreciated and respected. According to this view, the Organization should be careful to avoid a course of action where legality might be sacrificed to immediate political motivations, where legal standards instead of being applied consistently were applied selectively. This pattern, it was stated, would run counter to and jeopardize the legal regime created by the Charter and bring chaos to international relations.

23. Another representative, while welcoming the administrative changes in the Organization and the rationalization of procedures recommended by the Special Committee itself, as well as those started by the Economic and Social Council,

was doubtful whether structural changes of the Organization were really necessary, although in the past adjustments might have been necessitated by the evolving international situation, as in the case of peace-keeping operations. The representative agreed that all the changes being discussed by the international community should be based on ethical grounds and should not prevent consideration of the concept of respect for human rights.

24. Other proposals for the strengthening of the Organization that did not entail amendments of the Charter included the question of the strengthening of the role of the General Assembly and of the Secretary-General, particularly in the area of preventive diplomacy; and the full implementation of the system of collective security as envisaged in Chapter VII of the Charter.

25. Some delegations encouraged the Special Committee to address the question of the relationship between the Security Council and the General Assembly, which, in their view, should reflect the provisions of Article 24 and Article 15, paragraph 1, of the Charter. In this connection, the view was expressed that the General Assembly should make better use of its powers and not refrain from stating its position on situations that could threaten international peace and security. According to this view, priority should be given to a more balanced relationship and greater cooperation between the Security Council and the General Assembly, and the dialogue between the two organs should be made more effective. Some representatives also addressed the question of the strengthening of the role of the General Assembly in line with Articles 10, 11 and 35 of the Charter. In the view of one of those representatives, the General Assembly, the body in which all Member States were equally represented, should be called upon more often to play its appropriate role in the field of the maintenance of international peace and security, and in this connection he also suggested that the resolutions of the General Assembly should be considered mandatory and should be implemented by States.

26. There was also the view, joining the statement made by the Secretary-General in his report, that "another deficiency of the system of collective security is the insufficient use of the principal judicial organ of the United Nations". Likewise, the view was expressed that the International Court of Justice should play a greater role in the collective security system by participating in the solution of questions of a legal nature, and in this connection all members of the Council, especially permanent members, should recognize the compulsory jurisdiction of the Court.

27. Another representative was of the view that an in-depth study of the factors which impeded United Nations bodies from applying the provisions of the Charter was needed, and he urged Member States to demonstrate political will by implementing resolutions adopted by United Nations bodies. The representative also suggested that a preparatory committee on revisions of the Charter, pursuant to Article 109, should be established. He added that the fiftieth anniversary of the Organization would present an appropriate occasion to receive the findings of this preparatory committee. It was his delegation's view that the improvement of the effectiveness of the United Nations bodies could only result from radical changes in the working methods of the Organization, which called for revisions in the rules of procedure of its bodies. The Security Council's provisional rules of procedure, he remarked, could be altered according to certain guidelines to be determined,

so as to exclude from the veto power certain categories of subjects, such as the appointment of observers in areas of conflict; greater attention should be paid to the provision in Article 27, paragraph 3, of the Charter, requiring a party to a dispute to abstain from voting in the Council, and merit was seen in using rule 28 of the rules of procedure to appoint a body to study a particular situation of conflict.

28. It was pointed out that the the Special Committee could, for example, make a useful contribution to the revitalization of the United Nations within the context of the response by the Secretary-General to the request made of him by the Security Council at its Summit Meeting that he recommend ways and means of strengthening the United Nations in the area of preventive diplomacy, peace-keeping and peacemaking and the broader use of his good offices.

29. One representative was of the view that, rather than referring to particular positions taken at the historic Summit Meeting, it was useful to refer to the conclusions contained in the statement issued by the President of the Council on behalf of and with the authority of all its members: 6/ the Summit statement acknowledged the progress of democracy in the world and the promotion of human rights and fundamental freedoms, it welcomed the broadening of United Nations peace-keeping tasks to include election monitoring, human rights verification and the repatriation of refugees, it stressed the need to deal effectively with international terrorism, it viewed the proliferation of weapons of mass destruction as a threat to international peace and security, it called for action for the prevention of the spread of technology related to the research for or production of such weapons and it emphasized the importance of adherence to the Treaty on the Non-Proliferation of Nuclear Weapons.

30. Another representative, commenting on the statement of the President issued by the Security Council at its Summit Meeting, supported the idea that the collective security of the United Nations had to be reinforced and that the Security Council, which has the primary responsibility for the maintenance of international peace and security, should be able to take prompt and effective action to prevent and remove threats to peace and security. In that respect, she believed that there was a need to make optimum use of all the possibilities offered under Chapter VII of the Charter of the United Nations, which constituted the cornerstone of the collective security system of the Organization. She was of the view that more frequent and effective application of the provisions of that Chapter would strengthen the role of the United Nations in the maintenance of international peace and security. In this connection, the representative suggested that the Special Committee take up the question of collective security and examine it in its entirety, the only one of the three fundamental principles on which the United Nations system was based that had not yet been explored. The representative further stressed, with regard to the question of enforcement action vis-à-vis a State that had breached the peace or had failed to comply with the Security Council decisions, that it was essential for the Security Council to ensure that its decisions were acted upon by the parties concerned.

31. A number of delegations supported the proposal by the Secretary-General that he be authorized to request advisory opinions from the International Court of Justice. In this connection, reference was made to the statement by the Secretary-General during the forty-sixth session of the General Assembly

in which he clarified that he would request an advisory opinion from the International Court of Justice when exercising his good offices and with the consent of the parties to the dispute. It was suggested that the Secretary-General should further elaborate on this proposal in the report which he is required to submit by 1 July 1992 on the request of the Security Council at its Summit Meeting. However, doubts were also expressed concerning the proposal of the Secretary-General. In particular, it was observed that the question of authorizing the Secretary-General to request advisory opinions from the International Court of Justice was linked to an overall examination of their respective roles. The point was also made that the Special Committee would be the appropriate forum for dealing with this proposal. A request was made of the Legal Counsel of the United Nations for further clarification of the issues involved in the proposal. Such clarification was made by the Legal Counsel in the following statement before the 164th plenary meeting of the Special Committee, held on 18 February 1992:

> "I have been asked to explain to the Charter Committee the considerations underlying the suggestion made, on various occasions, by Secretary-General Pérez de Cuéllar, and which are shared by the present Secretary-General, to authorize the Secretary-General to request advisory opinions of the International Court of Justice (ICJ). I should like to state the following.
>
> "Under Article 96, paragraph 1, of the Charter, the General Assembly and the Security Council have the express power to request advisory opinions from the Court on 'any legal question'.
>
> "Article 96, paragraph 2, further empowers the General Assembly to authorize 'other organs of the United Nations and specialized agencies' to request advisory opinions from the Court 'on legal questions arising within the scope of their activities'.
>
> "In implementation of Article 96, paragraph 2, the General Assembly has to date authorized the Economic and Social Council and the Trusteeship Council, as well as the Interim Committee of the General Assembly and the Committee on Applications for Review of Administrative Tribunal Judgements, to request advisory opinions. The General Assembly has also authorized the International Atomic Energy Agency (IAEA) and all the specialized agencies (except the Universal Postal Union). As a result of such authorization, all these bodies are empowered to request advisory opinions from ICJ on 'legal questions arising within the scope of their activities'.
>
> "But thus far, the Secretary-General has not been given a similar authorization.
>
> "The suggestion that the Secretary-General be authorized to seek advisory opinions under Article 96, paragraph 2, has been made in order to facilitate the carrying out of his functions by enabling him to receive authoritative legal advice as to questions of international law arising within the scope of his activities, particularly in respect of disputes in which the Secretary-General has been asked to play a role (such as the exercise of his good offices or mediation). In effect, Secretary-General Pérez de Cuéllar stated in his annual report for 1990

his belief that 'the extension of this authority to the Secretary-General would greatly add to the means of peaceful solution of international crisis situations. The suggestion is prompted by the complementary relationship between the Security Council and the Secretary-General and by the consideration that almost all situations bearing upon international peace and security require the strenuous exercise of the good offices of the Secretary-General.'

"Experience shows that almost all international disputes have some legal component. In efforts aimed at dispute settlement, a separation of the legal components from the political problems would permit proper treatment according to the nature and content of the individual issues involved, and can have a stabilizing and helpful effect.

"It may be argued that if ICJ's legal advice is useful, the parties concerned may obtain it by concluding a compromis (or a special agreement) for that purpose, which is already envisaged under Article 36, paragraph 1, of the Statute of the Court, and instituting contentious proceedings.

"The issue here is, however, not a question of making better use of the existing arrangement. The issue is whether contentious proceedings would be the most appropriate means and whether such proceedings would help to achieve the objective, bearing in mind that delicate and sensitive situations are involved.

"Contentious proceedings are adversarial and the parties are directly involved, which can inflate the issues or cause the positions of the parties to become more entrenched rather than facilitate a solution.

"It may also be contended that, if advisory opinions are preferred, either the General Assembly or the Security Council might ask for them, as they are directly authorized under Article 96, paragraph 1, to request advisory opinions 'on any legal question'.

"However, in order to request an advisory opinion, either the General Assembly or the Security Council must formally decide that an advisory opinion will be sought and which questions will be put to the Court. The questions to be posed must first be formulated and then endorsed not by the parties to the dispute or the Secretary-General but by a majority of the members of the Assembly or the Council. All these decisions are subject to and preceded by open, public debate. There would also be consultations and negotiations among the delegates as well as between the delegates and their home Governments. Clearly, the reaching of a formal decision can hardly be expected without a full exposure of the positions or arguments held by the respective parties to the entire membership of the Assembly or the Council. All this would not be desirable in instances where the goal is to defuse tension and to allow the Secretary-General to play his role.

"However, if the Secretary-General himself has the competence to request advisory opinions, he would be able to do so in a quiet and discreet manner and without having to involve States not parties to the dispute.

"It may also be contended that those bodies which have already been authorized to request advisory opinions are all deliberative organs, while the Secretary-General is an individual and makes decisions by himself.

"In this regard, it is important to emphasize that in view of the status of the high office of the Secretary-General and its responsibility under the Charter, it is certain that the authorization given to the Secretary-General would only be exercised with the greatest care and consideration and only after all relevant factors have been taken into account. I would also like to recall that the Charter has entrusted the Secretary-General with a politically sensitive right under Article 99, that is, to 'bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security'. There is no reason to suggest that the exercise of that authorization would require less constraint on the part of the Secretary-General than the exercise of the Article 96 authorization.

"Moreover, it is the intention to link the authorization under Article 96, if it is given to the Secretary-General, to an important restriction where disputes are concerned: in these cases he would need the agreement of the parties to the dispute to the submission of a request to the Court. This condition would be spelled out in the authorizing resolution.

"This is what I would like to state on the considerations underlying the suggestion to authorize the Secretary-General under Article 96, paragraph 2, to request advisory opinions from the International Court of Justice. In this context, the possibility of intermediary solutions has been mentioned, such as a resolution of the General Assembly setting forth that the Secretary-General might be authorized on an ad hoc basis to seek advisory opinions on specific legal issues or in the context of a specific dispute. However, authorizations of this kind would not achieve the goal fully and would be difficult to operate in practice."

32. Following the statement by the Legal Counsel, further comments were made by delegations on the proposal by the Secretary-General. Some of the delegations supported the proposal of the Secretary-General. However, an opinion was expressed by other delegations that some aspects of the proposal needed clarification. Thus the point was made that the proposal raised a number of difficult questions, such as the meaning of the phrase "within the scope of their activities" in Article 96 of the Charter and whether the authorization of the Secretary-General to seek an advisory opinion from the International Court of Justice would encompass the entire range of his activities or only those activities related to the settlement of disputes between States; whether the consent of the parties to the request for an advisory opinion extended to the actual formulation of the question addressed to the Counsel how the advisory role of the Court would relate to the role of the Legal Counsel; whether it was appropriate to grant such authorization, which so far had only been granted to intergovernmental bodies, to an individual; and whether, in case the dispute had not been resolved in spite of a request for an advisory opinion by the Secretary-General and the dispute had been referred to the General Assembly or the Security Council, the latter organs would be bound by the advisory opinion. The view was expressed that a

request for an advisory opinion from the International Court of Justice should benefit from wide support, and while this condition was clearly met when the request came from an intergovernmental body the same could not necessarily be said about a request emanating from the Secretary-General. Further clarification was sought as to whether the authorization would be granted on an ad hoc basis or whether it would be granted on a permanent basis.

33. Comments were also made with regard to other specific proposals which were before the Special Committee at its 1992 session. With respect to the proposal submitted by the Russian Federation on cooperation between the United Nations and regional organizations, which was generally supported, the point was made that regional organizations were an integral part of the collective security system of the Charter. The view was expressed that regional organizations could play an important role in terms of preventive diplomacy, peace-keeping and peacemaking at a time when ethnic rivalries had re-emerged as a result of socio-economic problems. It was further observed that regional organizations should not compete with the United Nations, and that the activities of such organizations and of the United Nations both should be complementary. The recent involvement by a number of regional organizations in the peaceful settlement of specific conflicts was highlighted. Support was expressed for the inclusion in the working paper of provisions relating to the protection of human rights and the rights of minorities, since these were considered to be important elements in ensuring regional and global security. In this connection, it was stressed that there were economic and political as well as humanitarian aspects to security. The point was also made that the Special Committee should address the question of the cooperation between the United Nations and regional organizations in the field of disarmament and development. The view was expressed that the working paper submitted by the Russian Federation should place more emphasis on the role of the General Assembly in the peaceful settlement of disputes. It was pointed out that the working paper did not define the regional organizations to which it applied and that it could be useful to discuss this issue. The strengthening of the role of the Secretary-General through periodic meetings between him and the heads of regional organizations received support. The suggestion was made that the Special Committee should invite the heads of regional organizations to address it, and that this would assist the Committee in its work on the topic.

34. Views were expressed on the proposal regarding the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, submitted by Bangladesh, Bulgaria, Lebanon, the Philippines, Romania, Seychelles, Uruguay and Viet Nam (see para. 110). A number of delegations supported the working paper, particularly in view of the difficulties encountered in the application of sanctions, namely: the absence of rules and guidelines for determining the humanitarian circumstances which may constitute exceptions to the imposition of sanctions; the absence in the Charter of criteria to assess the special economic problems confronting States, as referred to in Article 50 of the Charter; and the question of the authority to interpret the provisions of the relevant resolutions and the measures to ensure compliance with them. It was also suggested that there was a need to establish an automatic mechanism for a prompt response to the economic problems mentioned in Article 50 of the Charter. These problems had been recognized by the Secretary-General in his latest report on the work of the

Organization, 7/ as well as by some participants at the Security Council Summit Meeting. One representative observed in this connection that, while the concerns of the sponsors were understood it should be stressed that compliance with Security Council decisions was an unconditional obligation imposed upon States under Article 25 of the Charter. The representative also noted that the working paper submitted to the Special Committee did not contain any specific suggestion for general arrangements and that, furthermore, each case was by definition specific. Another representative doubted that a solution to the question could be found in the context of a legal text rather than at a political level.

35. The proposal on United Nations rules for the conciliation of disputes between States submitted by Guatemala was generally supported. The view was expressed that the Special Committee should bear in mind its previous work in this area. The point was further made that the proposal fell within the framework of the United Nations Decade of International Law. In this connection, the proposal for a universal document on the peaceful settlement of disputes was recalled. The view was expressed that the participation of the Secretary-General in the process of conciliation was very important. The point was made that the proposal by Guatemala could lead to the elaboration of a set of model rules which would facilitate and encourage resort to conciliation. The view was expressed that any such rules should be recommendatory in nature.

36. Concerning the composition of the Special Committee itself, some delegations proposed the expansion of its membership, which could be open-ended, or its possible transformation into a plenary organ of the United Nations. Others did not believe that such a change could improve the quality of the work of the Committee and pointed out that the membership of the Committee was already large, observers were permitted and could participate on a practically equal basis with its members and the work of the Committee was subject to discussion by all Member States in the Sixth Committee.

37. At the end of the session, all the participants expressed their deep gratitude and appreciation to the Chairman of the Special Committee, Mr. Miroslav Potocny, for his excellent guidance, dedication and outstanding contribution, with the efficient help of the members of the Bureau and the Secretariat, to the successful outcome of the work.

III. MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY

Statement of the Rapporteur

38. In accordance with the decision of the Special Committee taken at its 153rd meeting, the Working Group considered the question of the maintenance of international peace and security at its 9th to 20th meetings, between 10 and 19 February 1992.

A. Consideration of the working paper entitled "Draft declaration on the improvement of cooperation between the United Nations and regional organizations" submitted by the Russian Federation

39. At its 9th meeting, the Working Group began its consideration of the working paper entitled "Draft declaration on the improvement of cooperation between the United Nations and regional organizations" (A/AC.182/L.72), the text of which read as follows:

"DRAFT DECLARATION ON THE IMPROVEMENT OF COOPERATION BETWEEN THE UNITED NATIONS AND REGIONAL ORGANIZATIONS

"The General Assembly,

"Referring to the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations, the Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field and the Declaration on Fact-Finding by the United Nations in the Field of the Maintenance of International Peace and Security, and also to their provisions concerning the activities of regional organizations,

"Deeply disturbed by the existence and emergence of new trouble spots, disputes and conflicts, including those related to tensions among nationalities, interdenominational discord and the violation of fundamental human rights and freedoms, as well as the rights of national minorities in different parts of the world,

"Recognizing that, according to the Charter of the United Nations, the basic task of regional organizations is that of dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such regional organizations and their activities are consistent with the Purposes and Principles of the United Nations,

"Emphasizing that the ability of the United Nations to maintain international peace and security depends to a large extent on flexible coordination and effective action by regional and subregional

organizations, which are an indispensable component of the system of collective security provided for under the Charter of the United Nations,

"Recognizing that full utilization and further improvement of the structures and mechanisms of regional organizations could help to strengthen the role of the United Nations in the maintenance of international peace and security and promote the peaceful settlement of disputes and the prevention and removal of threats to the peace,

"Considering that measures to establish and improve regional security systems, taking into account the distinctive characteristics of individual regions and the new circumstances prevailing, should go hand in hand with efforts by the entire international community to bring about collective security in accordance with the Charter of the United Nations and to create a new world order in which the Organization's strategic role is ensured,

"Endeavouring to promote awareness among States of the role that regional organizations and their mechanisms can play in taking steps to influence a State with a view to ensuring the defence of human rights and democracy and the supremacy of the law in the event of massive and systematic infringements by the State concerned of its obligations in these fields,

"Considering the experience gained and the favourable results achieved by regional and subregional organizations in the peaceful and just settlement of disputes, situations and conflicts in different parts of the world,

"Recognizing the need for States, in exercising their sovereignty, to cooperate with relevant regional organizations in creating conditions conducive to predictability, concord, mutual understanding and stability in individual regions and throughout the world,

"Solemnly declares that:

"1. In accordance with their obligations under the Charter of the United Nations, States should seek to establish functionally and structurally balanced regional organizations capable of taking effective action for the prevention and the durable and peaceful settlement of disputes and conflicts, also within States at their request, and the development of cooperation among States with a view to building up trust and security among them and promoting control over arms and disarmament.

"2. Regional agencies and arrangements should fulfil wide-ranging functions relating to the maintenance of peace and security and should have their own procedures for the peaceful settlement of disputes through negotiations, inquiries, mediation, conciliation, good offices, judicial inquiries and arbitration, and also through the assignment to permanent bodies within regional organizations, to that end, of relevant specific functions.

"3. The settlement of disputes with the assistance of regional organs or arrangements should be based on free choice of these specific

means by the parties to a local conflict and should seek primarily to apply the procedures for the settlement of disputes established in a specific regional document.

"4. States participating in regional organizations should make every effort to effect a peaceful settlement of local disputes with the help of the regional organizations before referring such disputes to the Security Council.

"5. States should seek to establish, and improve the functioning of, regional security mechanisms in the field of peaceful settlement of disputes in accordance with the Charter of the United Nations.

"6. States should pay appropriate attention to the establishment and improvement within regional organizations of an extensive network of mechanisms and institutes for the timely compilation, analysis and processing of full and objective information on the relevant facts relating to any dispute or conflict that is developing or has arisen.

"7. States should consider the possibility of strengthening the preventive functions of regional organizations and of establishing for this purpose procedures and mechanisms capable of identifying and detecting regional disputes and situations at an early stage in their development and taking appropriate measures to prevent their escalation or transformation into military confrontations.

"8. States should consider the possibility of setting up, training and using, within the framework of regional organizations, groups of military and civilian observers, contingents of regional peacemaking forces, police units and civilian experts for purposes of fact-finding, separating the forces of the antagonists, monitoring compliance with cease-fire, truce and disarmament agreements and maintaining law and order in the event of the outbreak of disorder and confrontations on ethnic, national or religious grounds between States and within countries at their request.

"9. States should seek to agree on and adopt, within the framework of regional organizations, methods to strengthen security, build confidence and limit the level of military confrontation in the region.

"10. States should take steps in accordance with their constitutional processes for the purpose of acceding to all treaties establishing an international legal regime in the field of non-proliferation, and above all to the Treaty on the Non-Proliferation of Nuclear Weapons.

"11. States should promote the development of regional arrangements and agreements on the banning of nuclear tests and of attacks on nuclear facilities.

"12. The Security Council should encourage the development of the application of peaceful settlement of local disputes with the assistance of regional organizations either on the initiative of the States concerned or on its own initiative.

"13. Dispute settlement by States participating in regional organizations with the assistance of such organizations shall not affect the authority of the Security Council to investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in accordance with Article 34 of the Charter of the United Nations, or the right of any Member of the United Nations, in accordance with Article 35 of the Charter, to bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly.

"14. The Security Council shall, where appropriate, make use of regional organizations for enforcement action under its guidance, but no enforcement action may be undertaken under regional arrangements or by regional agencies without authorization from the Security Council.

"15. The Security Council shall always be fully informed of action taken or envisaged under regional arrangements or by regional agencies for the maintenance of international peace and security, including measures taken under Article 51 of the Charter of the United Nations.

"16. States should promote the strengthening and improvement of cooperation and interaction between the United Nations and regional organizations in the development of broad international cooperation and the maintenance of international peace and security.

"17. The Secretary-General of the United Nations and the leaders of regional organizations should meet on a regular basis to exchange information relating to local disputes and situations which may endanger international peace and security, propose joint initiatives for the purpose of settling local disputes, and also consider specific problems of the political, economic, social and cultural development of the countries in the region concerned.

"18. Regional organizations should assist the countries of their respective region, at their request, in strengthening their security in accordance with the Purposes and Principles of the Charter.

"19. The Security Council or its permanent members may, where appropriate and on the request of the regional organizations, act as guarantors of regional security.

"20. Regional organizations should consider the possibility of taking coordinated steps with a view to providing assistance to strengthen guarantees of human rights and the rights of national minorities and including the regions within the sphere of application of future measures to build confidence and promote openness.

"21. Regional organizations should deal, along with issues of the peaceful settlement of disputes and the maintenance of international peace and security in the respective regions, with the political, economic and humanitarian aspects of security and the development of broad international cooperation."

1. Introduction of the working paper by the sponsor

40. In introducing the working paper, the sponsor observed that the proposal to examine the question of the cooperation between the United Nations and regional organizations had received general support during the debate in the Sixth Committee at the forty-sixth session of the General Assembly, which had prompted his delegation to submit a revised version of the working paper on the subject tabled at the last session of the Special Committee and reproduced in paragraph 46 of the report of the Committee. 8/

41. Continuing his remarks on the working paper as a whole, the sponsor emphasized that effective cooperation between the United Nations and regional organizations would enhance world security. He referred to statements made to that effect at the Summit Meeting of the Security Council on 31 January 1992. He pointed out that it was necessary to strengthen cooperation between the United Nations and regional organizations in various aspects of international relations, particularly in the maintenance of international peace and security. The working paper, he explained, was aimed at bringing about the timely detection and prevention of regional conflicts as well as the prevention of the escalation of such disputes. The sponsor pointed out that the provisions of Chapter VIII of the Charter of the United Nations, which had been drawn up a long time ago, needed to be further developed in the light of the current state of international relations. In that connection, he stressed the need for a flexible and well-balanced coordination between the activities of the United Nations and those of regional organizations. The activities of such organizations, he observed, should however conform to the purposes and principles of the Charter. The sponsor further pointed out that the working paper, on the one hand, reaffirmed the right of regional organizations to attempt to resolve regional disputes by regional means before such disputes were referred to the Security Council, thus contributing to the maintenance of international peace and security. On the other hand, the working paper underscored the primary role of the Security Council with respect to the maintenance of international peace and security and reaffirmed the right of any Member State to bring any dispute or situation to the attention of the Council.

42. Turning to remarks on specific provisions of the working paper, the sponsor drew attention first to the elements of the working paper which were new. He pointed out that, as compared to the earlier version, the working paper under discussion was presented in the complete form of a draft declaration, including a preamble, in order to give a general direction to the work of the Committee.

43. With respect to the first preambular paragraph, the sponsor observed that it listed important instruments which constituted the basis for the work of the Committee on this topic. He remarked that the third preambular paragraph dealt with the important question of whether a particular dispute would be best dealt with by a regional organization or by the United Nations. The fourth preambular paragraph was intended to emphasize the assistance the regional organizations, which were an integral part of the system of collective security, could offer to the United Nations in the settlement of disputes. With regard to the sixth preambular paragraph, the sponsor stressed that the enhancement of the role of regional organizations did not mean a lesser role for the United Nations, which, in fact, had a strategic role to

play in the new world order. As to the seventh preambular paragraph, the sponsor pointed out that violations of human rights could threaten international peace and security and that regional organizations could play a role in preventing such violations. With respect to the ninth preambular paragraph, he stressed the importance of international cooperation for increasing stability and prosperity in the world.

44. Turning to the substantive part and to operative paragraph 1, the sponsor explained that regional organizations should be multidimensional and have a wide range of activities, including the capacity to contain and resolve internal conflicts of the kind which had recently occurred in certain areas of the world. This idea, he observed, was further developed in paragraphs 6 to 8. Concerning paragraph 6, the sponsor said that it underscored the need for the United Nations to share its experience with the regional organizations in the field of fact-finding. With regard to paragraph 8, he made the point that, as evidenced by recent events, there were various non-military threats to international peace and security, such as religious, ethnic, national and economic problems calling for measures suggested in the paragraph. As to paragraphs 9 and 10, they dealt with the issue of disarmament which should, as an important factor in reducing tensions, become an integral part of preventive diplomacy. Paragraph 10 dealt in particular with the issue of the non-proliferation of nuclear weapons, which was of prime importance from the standpoint of the strengthening of global and regional stability and security. In connection with paragraph 11, the sponsor noted that the prohibition of nuclear weapons testing was a priority area in the efforts of States in the field of disarmament and also emphasized the need to elaborate on international instruments the purpose of which would be to halt acts of terrorism against nuclear facilities. With respect to paragraph 20, he remarked that the question of the maintenance of international peace and security could not be separated from that of the protection of human rights and the rights of national minorities.

45. The sponsor also made introductory comments on the paragraphs contained in the previous version of the working paper. He remarked that paragraphs 2 to 5 of the version under discussion dealt with the obligation of States and regional organizations to encourage the peaceful settlement of disputes. With respect to paragraph 5, he observed that regional organizations should not only use classical means for the peaceful settlement of disputes, but also undertake other measures to that end in the light of new developments in that field. Paragraph 4 addressed the issue of the respective order in which disputes should be referred to regional organizations and to the Security Council. With respect to paragraph 5, the sponsor pointed out that the paragraph left it to regional organizations to decide what security mechanisms they should adopt in the field of the peaceful settlement of disputes. The sponsor observed that paragraphs 12 to 15 dealt with the role of the Security Council in the field of the maintenance of international peace and security and the peaceful settlement of disputes, in accordance with the relevant provisions of the Charter of the United Nations. He pointed out that paragraph 16 expressed the most important aim of the working paper, namely the enhancement of the cooperation between the United Nations and regional organizations, while paragraph 17 was aimed at enhancing further the peacemaking role of the Secretary-General. Concerning paragraph 19, the sponsor made the point that guarantors of regional security had been used in the past in the settlement of certain conflicts, and that the use of such a

procedure at the request of regional organizations would further strengthen regional security. As to paragraph 21, the sponsor remarked that political, economic, and humanitarian problems had to be addressed if regional organizations were to successfully fulfil their functions in the field of the maintenance of international peace and security and the peaceful settlement of disputes.

2. General comments on the working paper

46. The working paper was welcomed by a majority of delegations as a timely initiative providing the Special Committee with a good basis for its work on the topic. However, some delegations expressed the view that further background information concerning the relationship between the United Nations and regional organizations would assist the Committee in its consideration of the working paper.

47. The view was expressed that, given the changes in the international political atmosphere, both the United Nations and regional organizations had to play a greater role in the field of the maintenance of international peace and security, in particular through preventive diplomacy. It was thus felt that the time had come to revitalize Chapter VIII of the Charter of the United Nations by studying practical ways to encourage resort to regional organizations and their cooperation with the United Nations in the prevention and settlement of regional conflicts. In this connection, reference was made to the statement of the President of the Security Council issued at the conclusion of the Summit Meeting of 31 January 1992, 6/ which recognized the contribution of regional organizations to the work of the Security Council. A number of delegations suggested that the discussion of the Special Committee on this topic should be taken into account in the preparation of the report which had been requested at the Summit from the Secretary-General on enhancing the capacity of the United Nations in the field of preventive diplomacy, peacemaking and peace-keeping. The point was made that the report of the Secretary-General would, in turn, assist the Committee at its next session when discussing the subject. The need to agree upon a precise definition of the concept of preventive diplomacy was mentioned.

48. The view was expressed that the working paper submitted by the Russian Federation was based on Chapter VIII of the Charter, without entering into delicate issues of interpretation of the Charter, but aiming at stimulating political will for achieving effective cooperation between the United Nations and regional organizations. In this connection, it was pointed out that the broad language used in Chapter VIII of the Charter indeed provided a foundation to build on and that the working paper, similarly, followed such a general guideline approach. It was observed that the working paper should, however, place more emphasis on the practical modalities for achieving the cooperation between the United Nations and regional organizations, instead of dealing with the specific functions of regional organizations and of stating general principles. It was pointed out in this connection that the activities of the United Nations and those of the regional organizations should complement each other. The view was also expressed that regional mechanisms for the peaceful settlement of disputes should be effective to encourage States to resort to them before resorting to the United Nations. The point was made that regional organizations had indeed made considerable progress in this regard. The view was expressed that the experience of certain regional

organizations could serve as a useful model for others. It was suggested that regional organizations should be held more accountable for their activities, since there was the danger that a regional organization could be manipulated for the furtherance of national or religious goals.

49. The point was made that it was premature to deal, at the current stage, with the question concerning the final form that the document would take. It was further noted that the title of the working paper did not define the scope of the cooperation between the United Nations and regional organizations.

50. The view was expressed that the working paper should state more clearly the primary responsibility of the Security Council for the maintenance of international peace and security under the Charter. But it was also felt that the working paper should deal as well with the role of the General Assembly in this respect. The point was made that the working paper failed to address clearly the issue of interregional cooperation. While the inclusion in the working paper of provisions stressing the importance of the protection of human rights and the rights of national and other minorities for the maintenance of international peace and security was supported by some delegations, other delegations expressed doubts concerning such provisions because they were based on too broad an interpretation of the concept of the maintenance of international peace and security. Some delegations also found it inappropriate to deal with the question of disarmament and non-proliferation of nuclear weapons in the context of the working paper, since these important issues were addressed in other forums of the United Nations, while others were of the view that such issues should be included in the working paper.

51. The point was also made that the working paper did not address the question of poverty and debt problems and failed to take into account the need for economic and social cooperation between regional organizations and the United Nations. It was however noted that the working paper called on regional organizations to undertake certain novel activities, such as regional peace-keeping. This approach was supported and the view was expressed in this connection that such regional activities should be undertaken in accordance with the Charter of the United Nations. It was further observed that the Security Council had so far not used regional arrangements for enforcement actions and that, were the Council to do so, this would raise the problem of the implementation of Article 43 of the Charter. The proposal contained in the working paper on the cooperation between the Secretary-General of the United Nations and the heads of regional organizations received support.

52. A number of points were made during the discussion of the working paper with respect to the terminology used therein. The question was raised whether it was necessary to define the terms "regional agencies or arrangements" and "regional organizations". The question was raised as to whether these terms referred only to those regional organizations or arrangements which had the maintenance of international peace and security as one of their objectives, or also to those which dealt with the maintenance of international peace and security in an incidental manner. The point was made that the language of the Charter in this regard was rather flexible, and that it would be difficult to identify those organizations and arrangements which fell strictly under Chapter VIII of the Charter. The view was expressed that a functional definition, covering regional organizations which dealt with the maintenance

of international peace and security in a wide sense, was appropriate. The point was made that the terms "regional organizations" as well as "regional agreements" and "regional arrangements" were to be found in the working paper and that it would be preferable in this regard to use consistently the language contained in the Charter. The question was raised whether the working paper dealt with existing regional organizations or organizations to be established. It was also observed that the term "regional" could be interpreted in different ways. It was noted that certain provisions of the working paper repeated to some extent certain Charter provisions, and that in this case the language in the working paper should be fully brought in line with the Charter. The point was made that the language used in the working paper should be looked at carefully, since the United Nations could not create obligations for regional organizations, which were equal legal entities, and that it might be better to address the regional organizations through the States Members of the United Nations which were members of such organizations.

53. In his reply, the sponsor observed that the purpose of the working paper was to make a practical contribution to the improvement of the cooperation between the United Nations and regional organizations and to reviving Chapter VIII of the Charter. He explained that the main emphasis of the working paper was the maintenance of international peace and security and addressed both military and non-military threats to international peace and security. As to the form of the working paper, the sponsor pointed out that it was the reflection of his delegation's approach with respect to the future form of the document on this topic.

3. Paragraph-by-paragraph discussion of the working paper

54. With respect to paragraph 1, clarification was sought as to the meaning of the phrase "functionally and structurally balanced". In this connection, the point was made that the United Nations should not get involved in the question of how the regional organizations should be structured, or what their functions should be. The view was expressed that the working paper should begin with paragraph 16, which focused, in accordance with the title of the working paper, on cooperation between the United Nations and regional organizations, rather than with paragraph 1, which dealt with the functions of regional organizations. The view was expressed that the paragraph should be redrafted to be more general and more in line with the language of the Charter, so as to read:

> "States should be encouraged to use regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security and the peaceful settlement of disputes, provided that such arrangements or agencies and their activities are consistent with the Charter of the United Nations."

It was observed that the paragraph gave the impression that there was an obligation on States under the Charter to establish regional organizations, and that it did not take into account existing regional organizations. It was therefore suggested to replace the term "establish" by the term "strengthen". Clarification was sought as to the meaning of the phrase "effective action". The view was also expressed that this phrase addressed an important issue and should therefore be maintained. It was pointed out that the phrase "promoting

control over arms and disarmament" referred to very novel elements in the context of the working paper. In this connection, the view was expressed that it would be preferable not to include these elements in the paragraph, but if they were to be retained, other elements should be added, such as economic development, communication, environment and food aid, which were already the subject of cooperation between the United Nations and regional organizations. It was also noted that the issue of disarmament was appropriately dealt with in other forums of the United Nations. Clarification was sought as to whether the term "States" referred only to Members of the United Nations or to all States.

55. As to the conditions for the intervention of regional organizations in internal conflicts, the point was made that the requirement of the request of the State concerned was too rigid, since regional organizations could envisage in their respective charters the possibility of intervention without such a request and since certain internal conflicts, such as those involving massive violations of human rights, could threaten international peace and security. The view was also expressed that the working paper should not deal with internal conflicts. A question was further raised as to whether a regional organization should initiate any action to settle an internal dispute of a State which was not a member of that organization. The view was also expressed that regional organizations should not interfere in the internal conflicts of their member States without the explicit consent of the relevant member States.

56. In his reply, the sponsor stressed that the intent was to have a flexible text, giving general political recommendations. He clarified that the paragraph dealt with both existing and future regional organizations. He explained that the reference to the Charter was to indicate that the working paper was in line with the Charter. With respect to the meaning of the phrase "functionally and structurally balanced", the sponsor said that it referred to the fact that regional organizations should be consistent with the purposes and principles of the Charter and that they should be multidimensional. He observed that disarmament was an integral part of regional security.

57. The thrust of paragraph 2 of the working paper was generally supported. It was however suggested that the paragraph would be better placed in the preamble. The point was also made that the paragraph listed all means of peaceful settlement of disputes in a cumulative fashion, although it was up to each regional organization to decide which means it deemed appropriate to use. Another view was that the paragraph should encourage regional arrangements or agencies to deal with the peaceful settlement of disputes and should call for greater resort to such agencies or arrangements. It was pointed out that some regional organizations also fulfilled functions which did not relate to the maintenance of international peace and security. It was also observed that regional organizations were under no obligation to have procedures for the peaceful settlement of disputes. Clarification was sought as to the meaning of the phrase "through the assignment to permanent bodies within regional organizations, to that end, of relevant specific functions". In this connection, it was observed that certain regional organizations did not use permanent bodies for the peaceful settlement of disputes, but rather ad hoc bodies. It was thus suggested to delete the term "permanent". The point was made that the term "wide-ranging" was too vague, and that it should be replaced by the term "necessary". But the view was also expressed that the

existing term was appropriate, since it encompassed novel activities such as election monitoring. The suggestion was also made that the phrase "judicial inquiries" should be replaced by "judicial settlement". In this connection, the question was raised whether this expression included the establishment of regional courts. It was also suggested that the paragraph be simplified to read: "Regional organizations may have their own procedures for the peaceful settlement of disputes while fulfilling functions in the field of the maintenance of international peace and security".

58. In his reply to the issues raised with respect to paragraph 2, the sponsor stressed that the original language used in the working paper did not imply mandatory provisions at all. He explained that the term "wide-ranging" referred to general tasks of a political nature undertaken by regional organizations, which had not been spelled out in order to avoid a rigid description of such functions. He pointed out that paragraph 2 listed the means for the peaceful settlement of disputes for purposes of flexibility. He also explained that the term "permanent bodies" referred to organs of regional organizations dealing with the peaceful settlement of disputes. As for the term "judicial inquiries", he clarified that it covered regional courts. He recognized the need to harmonize the language used in the working paper.

59. As regards comments made on paragraphs 3 and 4, the view was expressed that the difference between the two paragraphs was not clear. In particular, it was observed that both paragraphs dealt with the issue of the respective order in which disputes should be submitted to regional organizations and to the United Nations. The view was expressed that both paragraphs limited, contrary to the Charter, the free choice of States and discretion as to whether to resort to regional organizations and should therefore be deleted. It was observed in this connection that paragraph 13 of the working paper referred to the relevant provisions of the Charter and that paragraphs 4 and 13 should be placed closer together. With respect to paragraph 3, the point was made that some States had, in the framework of regional arrangements, accepted the obligation to resort to specific compulsory procedures for the peaceful settlement of disputes, and that the drafting of paragraph 3 did not seem to cover this case. In this connection, the suggestion was made to delete the paragraph. The view was expressed that emphasis on the principle of free choice of means might suggest that the establishment of compulsory procedures was undesirable. The point was made that the principle of free choice of means, if it had to be mentioned, would be better placed in paragraph 2. The view was also expressed that the principle of free choice of means was an essential principle in the peaceful settlement of disputes and had to be expressly mentioned in the working paper. Doubts were expressed with regard to the phrase "specific regional document" in paragraph 3, and it was suggested that the term "document" be replaced by "instrument". It was also suggested to delete in paragraph 3 the term "specific [means]" and replace the term "procedures" by "rules". The suggestion was further made to replace in paragraph 4 the term "participating" by the term "members" and the term "affect" by "achieve". It was pointed out that the terminology in the two paragraphs was inconsistent, since in one case the term "conflict" was used, and in the other the term "dispute". The suggestion was made that both paragraphs 3 and 4 be replaced by the following text: "Local disputes should, as a rule, be settled through regional arrangements or agencies, provided that any State may bring a dispute or situation to the attention of the United Nations."

60. In his reply to the issues raised in connection with paragraphs 3 and 4, the sponsor underlined that the use of the capabilities of regional organizations in the area of the peaceful settlement of disputes should be based on the principle of the free choice of means, a principle which was not contradicted by the recent trend towards establishing compulsory procedures for the peaceful settlement of disputes. He explained that it was not the intention of his delegation to exclude the possibility that regional arrangements or agencies may have established mandatory resort to procedures for the peaceful settlement of disputes. On the contrary, the paragraphs were aimed at encouraging resort to existing or future regional procedures for the peaceful settlement of disputes.

61. With respect to paragraph 5, the point was made that the paragraph gave the impression that there was an obligation for States to establish regional organizations. But it was also observed that since such regional security mechanisms already existed the working paper should focus on the encouragement of wider use of such mechanisms. In this connection it was suggested that the phrase "States should seek" be replaced by "States should be encouraged". The view was also expressed that the link between security mechanisms and the peaceful settlement of disputes was not clear, and a question was raised as to the meaning of the term "mechanisms" used in the paragraph. The suggestion was also made to place paragraph 5 before paragraph 3.

62. In his reply to the issues raised concerning paragraph 5, the sponsor remarked that the intention was to encourage States to improve regional security mechanisms, which should be consistent with the Charter and which had proved their importance in practice.

63. The main ideas in paragraphs 6 and 7 of the working paper were supported by a number of delegations. The point was made that fact-finding was an essential part of preventive diplomacy, which should also be undertaken by regional organizations. It was observed however that new institutions were not sufficient in themselves if there was lack of political will to use them, and that the paragraph should aim at encouraging such political will. Doubts were nevertheless expressed as to the feasibility of the establishment of the proposed network of information mentioned in the paragraph. In this connection it was stressed that the financial implication of such a provision could not be overlooked. Reference was made to the Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security, recently adopted by the General Assembly, 9/ and it was suggested that the paragraphs be redrafted in accordance with the language contained therein. It was also suggested that paragraphs 6 and 7 should be combined, while the view was also expressed that paragraph 6 was simply too detailed. The point was made that paragraph 7 did not make clear that the idea of prevention applied both to disputes themselves and to their escalation. The question was raised whether the term "regional disputes" in paragraph 7 also covered bilateral disputes. Clarification was sought as to the meaning of the phrase "taking appropriate measures" in paragraph 7. A question was raised as to why the paragraph was addressed to States rather than to regional organizations.

64. In his reply, the sponsor observed that paragraph 6 was not aimed at imposing any specific fact-finding procedures on regional organizations, which should decide themselves how to deal with the question. The intention was to encourage fact-finding activities by regional organizations, since

fact-finding was crucial for preventive diplomacy and the peaceful settlement of disputes. He remarked that the paragraphs had been inspired by the Declaration on Fact-finding. He observed that fact-finding should be undertaken even if costs were involved, because it would assist in the maintenance of international peace and security. He explained that paragraph 7 was addressed to States members of regional organizations. As to the term "regional disputes", it referred to disputes which had not yet evolved beyond a regional context. The sponsor clarified that the phrase "appropriate measures" referred to diplomatic and political measures.

65. With respect to comments made on paragraph 8, the view was expressed that the paragraph contained too many elements and that it should be simplified. It was felt that the paragraph should be worded in more general terms, to allow for a case-by-case response by regional organizations to different situations. The point was made that the paragraph should not address the issue of the competences of regional organizations. In this connection the view was expressed that a list of functions should be avoided since it could not be comprehensive. It was also felt that the paragraph gave the impression that the activities of the regional organizations would compete with those of the Security Council and that therefore paragraph 14, which clarified that this was not the case, was placed too far from paragraph 8. The idea of regional peace-keeping forces was supported by some delegations. In this connection, the point was made that paragraph 8 should emphasize more the aspect of the cooperation between the United Nations and regional organizations concerning peace-keeping operations. The suggestion was made to separate the different elements in the paragraph and to give them a more practical orientation.

66. It was observed that intervention by regional organizations to maintain law and order was a very novel element and doubts were expressed in this regard. The view was expressed that the phrase "and within countries at their request" should be deleted since it allowed for the possibility of interference in the internal affairs of States. The point was also made that there were cases where regional organizations could intervene in an internal conflict without a request from the State concerned. It was suggested that the phrase "at their request" be replaced by the phrase "at their request or with their agreement". Clarification was sought as to who would present a request for intervention by regional organizations, and it was pointed out in this connection that delicate issues, such as the recognition of Governments and the possible manipulation of a regional organization by one of the parties to the internal conflict, were involved. The view was expressed that the paragraph should be deleted in its entirety, since there were doubts as to whether regional organizations could carry out all the functions mentioned therein, in particular for financial reasons. The suggestion was also made to delete reference to disarmament in the paragraph. The question was raised whether "disarmament" in this context meant the laying down of arms. Clarification was sought as to the meaning of the phrase "separating the forces of the antagonists". It was suggested to replace the word "countries" by "States".

67. In his reply, the sponsor pointed out that paragraph 8 attempted to build on recent events regarding regional peace-keeping. Recent events in some regions, he added, had also demonstrated the usefulness of international organizations in maintaining law and order in the case of internal disorders.

He observed that one could not speak about interference in internal affairs when there was a request from the State concerned. With respect to the question as to who would make a request to a regional organization, the sponsor answered that it would be the Government recognized as legitimate by the regional organization. In the absence of a common position within the regional organization, no operation would be undertaken. The sponsor felt that the working paper was not the appropriate place to deal with financial considerations. He clarified that the term "disarmament" in the paragraph meant the disarmament of the antagonists in the conflict.

68. With respect to paragraph 9, the point was made that it gave the impression that resort to regional organizations was the only way to achieve the goal of peace and security. Clarification was sought as to the meaning of the phrase "methods to strengthen security" and of the phrase "to limit the level of military confrontation in the region". In connection with the latter phrase, the point was made that the level of military confrontation not only should be limited, but such confrontations should be avoided altogether. The suggestion was therefore made that the phrase "to limit the level" be replaced by the term "to prevent".

69. With respect to paragraph 10, general support was expressed for the principle of non-proliferation contained therein. The view was however expressed that the working paper should not deal with the issue of disarmament and the Treaty on the Non-Proliferation of Nuclear Weapons, and that the paragraph should therefore be deleted. In this connection, it was pointed out that in addition to non-proliferation and disarmament, there were other threats to international peace and security, such as lack of economic development, colonialism and racial discrimination, which should also be mentioned in the paragraph. The point was also made that disarmament and the Treaty on the Non-Proliferation of Nuclear Weapons were global, rather than regional issues. The view was expressed that it was appropriate to refer to specific threats to international peace and security in the working paper, such as was the case in paragraphs 10, 11, 20 and 21, and that it would be preferable that these paragraphs be placed closer together. The suggestion was made that paragraph 10 should be placed in the preamble. It was pointed out that disarmament was also referred in paragraph 1 and that the issue should be dealt with in only one paragraph.

70. It was felt that paragraph 10 should focus on practical measures for the cooperation between the United Nations and regional organizations in the field of non-proliferation, rather than restate a general principle. The view was also expressed that it was inappropriate to highlight in the paragraph a particular treaty, and that reference should be made in general terms to all disarmament treaties. The suggestion was made to add after the term "non-proliferation" the phrase "of weapons of mass destruction". It was suggested that the phrase "States should take steps in accordance with their constitutional processes for the purposes of acceding" be replaced by "States should consider taking measures in regional or subregional arrangements to accede". It was suggested that the following phrase be added at the end of the paragraph: "and to this end, should commit themselves in good faith to the negotiation of a treaty for a total ban on nuclear testing". Clarification was sought regarding the link between paragraphs 10 and 11, and it was proposed to merge the two. The view was expressed that the non-proliferation of nuclear weapons was a global issue and that specific

reference - which was discriminatory - to the Non-Proliferation Treaty was inappropriate in an instrument on the cooperation between the United Nations and regional organizations.

71. In his reply to the issues raised in connection with paragraphs 9 and 10, the sponsor underlined the importance of regional disarmament, which in his view should become an important factor, which not only stabilized situations at the regional level but also noticeably decreased tensions within the regions. He remarked that the paragraphs were addressed to States members of regional organizations and underlined that the language used in the paragraphs was not mandatory. He explained that paragraph 1 dealt with the activities of regional organizations in general, and that paragraph 10 dealt with specific activities in the field of disarmament. He observed that there was indeed a connection between paragraphs 10 and 11, but that they reflected different important ideas which merited separate consideration. He agreed with the view that there were aspects other than disarmament with respect to international peace and security, and observed that other paragraphs dealt with certain other threats to international peace and security.

72. With regard to paragraph 11, the point was made that it dealt with two different issues, nuclear tests and attacks on nuclear facilities, which should be separated. The view was expressed that the paragraph should urge States to accede to treaties relating to nuclear testing. It was also stated that the paragraph, which dealt with a controversial issue that did not relate to cooperation between the United Nations and regional organizations was unacceptable. The point was further made that the issues raised in the paragraph were global issues that should not be handled at the regional level. The view was however expressed that regional organizations had a role to play in this respect. In this connection, the suggestion was made that the paragraph be reformulated as follows: "States should consider the development of regional initiatives to promote the goal of disarmament, including such matters as nuclear-free-zones." The suggestion was made to add to the proposed text the term "subregional" after "regional". Clarification was sought as to whether the paragraph envisaged attacks on nuclear facilities by States or by terrorists.

73. In his reply, the sponsor expressed the view that disarmament in general and nuclear weapons in particular, were not only a global, but also regional concerns. He observed that nuclear tests in one area could have adverse effects in another area, and clarified that the paragraph was meant to address primarily terrorist attacks on nuclear facilities.

74. Concerning paragraph 12, the view was expressed that reference should also be made to the role of the General Assembly in the maintenance of international peace and security. It was felt that States that were not members of a regional organization should also be able to resort to that organization for the peaceful settlement of disputes. The point was made that paragraph 12, as well as paragraphs 13 to 15, were to a great extent a repetition of Charter provisions. In this connection, it was suggested that a simple reference to relevant Charter provisions was sufficient, or that the paragraphs should be placed in the preamble or deleted altogether. There was also the view, however, that these important provisions had to be spelled out in the working paper.

75. In his reply, the sponsor observed that paragraphs 12 and 13 dealt with the role of the Security Council in the peaceful settlement of disputes and the relation between the United Nations and regional organizations as envisaged under the Charter.

76. With regard to paragraph 14, the point was made that regional organizations might lack the capabilities to undertake enforcement actions. In this connection, the view was expressed that such practical questions should be addressed in the working paper. It was suggested that the Security Council should financially support such actions. A suggestion was made to add a sentence to the paragraph to the effect that the Security Council should intervene in the case where aggression was carried out under the pretext of enforcement actions by regional organizations. Concerning paragraph 15, the point was made that it was inappropriate to deal in the same paragraph with the question of the information given to the Security Council under Article 54 and that given under Article 51 of the Charter, since the reporting requirements were different in each case. It was further observed that Article 51 of the Charter addressed the question of self-defence, while Article 54 covered activities undertaken in general by regional organizations, which were two different issues. It was therefore suggested to delete the reference to Article 51.

77. In his reply, the sponsor stressed that paragraph 14 addressed the respective roles of the Security Council and regional organizations in the system of collective security. He underlined that the Security Council, as stated in paragraph 15, was to be informed of any activities undertaken by regional organizations so that it could assess whether these activities were in conformity with the Charter. He explained that paragraph 15 contained a reference to Article 51 of the Charter because under that article, also, there was an obligation for regional organizations to keep the Security Council informed of any activities undertaken, particularly since that Article permitted the use of force, about which the Council should always be informed.

78. With respect to paragraph 16, the view was expressed that it should be the first paragraph in the operative part of the working paper, since it dealt with the primary purpose of the working paper. The point was made that the paragraph gave the impression that the cooperation between the United Nations and regional organizations needed strengthening and improvement, although such an evaluation had not been undertaken. In this connection, the view was expressed that the Special Committee should invite the heads of regional organizations to address it in order to give the Committee information on the cooperation between their organization and the United Nations. The view was also expressed that the question of issuing such invitations should be addressed at a later stage. It was therefore suggested that the paragraph be reformulated as follows: "States are invited to promote a study on cooperation between regional organizations and the United Nations and if necessary, to promote the means for strengthening and achieving such cooperation." The following reformulation of the paragraph was also suggested: "States should strengthen the cooperation between the United Nations and regional organizations and encourage their close collaboration and the holding of consultations on matters relating to the maintenance of international peace and security." It was suggested that the term "cooperation" be replaced by the term "coordination". Clarification was sought as to the meaning of the phrase "in the development of broad

international cooperation". The suggestion was also made to delete that phrase. The point was made that the paragraph should make reference to cooperation between the United Nations and regional organizations in the field of human rights. The view was expressed that cooperation between the United Nations and regional organizations should also deal with economic problems, since the latter were related to the maintenance of international peace and security.

79. In his reply, the sponsor observed that the assessment of the existing level of cooperation between the United Nations and regional organizations should not be carried out at this stage in the context of the discussion of the working paper, and that the views of regional organizations on the matter, which in and of themselves were very important, could be taken account of at a later stage.

80. Concerning paragraph 17, the view was expressed that the idea contained therein was practical and useful. It was observed that the paragraph did not suggest any specific time-frame regarding the frequency of the meetings between the Secretary-General and the heads of regional organizations. The view was expressed that the paragraph limited to some extent the purpose of these meetings, and that a more general and flexible formulation of the paragraph was therefore desirable. The point was made that the last phrase of the paragraph was, on the contrary, too wide in scope. In this connection it was felt that the paragraph should deal with the question of the maintenance of international peace and security, on the understanding that this was without prejudice to the question of cooperation between the United Nations and regional organizations in other fields. The view was expressed that the internal affairs of a State could not be discussed without the consent of that State, and the suggestion was therefore made to delete the phrase "of the countries". The view was also expressed that the initiative for the settlement of disputes under paragraph 17 should be in accordance with the provisions of the Charter.

81. It was observed that the important issue was the communication between the Secretary-General and the heads of regional organizations, and that meetings were not always necessary for this purpose since contacts between them could be made by other means. The point was made that the paragraph was also too rigid in that it did not envisage contacts between the United Nations and regional organizations at other levels. Information on any such past meetings was sought. The point was made that the financial and administrative implications of the proposal in the paragraph should be explored. In this connection, reference was made to a specific agreement between the United Nations and a regional organization, which provided for administrative arrangements for such cooperation. 10/ The question was raised whether it was within the competence of the Secretary-General to propose joint initiatives such as those envisaged in the paragraph. Clarification was sought on to whom these joint initiatives would be proposed. It was observed in this connection that regional organizations could not make such proposals to the Security Council. The suggestion was made to simplify the paragraph so as to read:

> "The Secretary-General of the United Nations and the chief executive officers of regional organizations should meet on a regular basis to exchange information and to consider specific problems with a view to their cooperation in the field of the maintenance of international peace and security."

It was suggested that the term "leaders" should be replaced by "Secretaries-General". The suggestion was also made to add after the word "initiative" the phrase "in accordance with the provisions of the Charter of the United Nations".

82. In his reply, the sponsor observed that paragraph 17 was aimed at making the sporadic contacts that so far had taken place between the Secretary-General and the heads of regional organizations more regular, without establishing a fixed time-frame. He explained that the initiatives mentioned in the paragraph were related to the prevention and settlement of disputes. He observed that the solution of political, economic, social and cultural problems would contribute to international peace and security, and that the field of cooperation between the United Nations and regional organizations should thus not be restricted.

83. With respect to paragraph 18, doubts were expressed as to its purpose. In this connection, the point was made that it focused on cooperation between States and regional organizations, rather than on cooperation between regional organizations and the United Nations. The view was expressed that not all regional organizations could provide the assistance envisaged therein. The question was raised as to the relevance of the reference to the Charter of the United Nations. Clarification was sought as to whether the term "security" applied to internal or external security. It was suggested that the term "countries" be replaced by "States".

84. In his reply, the sponsor explained that the paragraph highlighted the contribution that regional organizations could make to ensure stability and security in a given region, which affected international peace and security and which was a concern of the United Nations. He explained that reference was made to the Charter in the paragraph because the strengthening of regional security should be in conformity with the purposes and principles of the Charter. He also clarified that the term "security" meant external security.

85. Regarding paragraph 19, the view was expressed that the Security Council as a whole, rather than individual members, should act as a guarantor of regional security. In this connection, it was felt that the phrase "or its permanent members" should be deleted. There was also the view that the paragraph should be redrafted so as to focus on the cooperation between organs of regional organizations and United Nations organs in this field. It was observed that a request for guarantee could come not only from regional organizations, but also from States. It was observed that the paragraph gave the impression that the Security Council could act as a guarantor only at the request of a regional organization. The point was made that the notion of guarantees was a useful one, but that it was difficult to elaborate a general rule on the matter, which was better dealt with on a case-by-case basis. It was further pointed out that the notion of guarantees could be interpreted as prohibiting the use of force, and that this was in contradiction to the provisions of the Charter which permitted the use of force in certain circumstances. The view was also expressed that the paragraph as a whole should be deleted. There was a view expressed against the idea of giving States the role of guarantor of regional security.

86. In his reply, the sponsor observed that the provision of such guarantees would strengthen the role of the United Nations in the maintenance of international peace and security and would have a positive impact on regional stability. He underlined the fact that the Security Council would act at the request of regional organizations, which would strengthen the link between the activities of the United Nations and those of regional organizations. He explained that permanent members of the Security Council had in the past acted as guarantors of regional security and that it was necessary to reflect this practice in the working paper.

87. With respect to paragraph 20, there was general agreement that the promotion of human rights was of the utmost importance. It was stated that this question was linked to the maintenance of international peace and security. The view was therefore expressed that the paragraph was an essential one. The role of regional organizations in this field was underlined. The view was, however, expressed that the paragraph gave the impression that the coordination should take place between two regional organizations. Coordination, it was pointed out, could also take place between the United Nations and regional organizations. Therefore the paragraph should address this latter aspect as well. It was felt that the paragraph should not single out the rights of minorities, since there were other threats to international peace and security, such as racial discrimination, which were not mentioned. There was also the view that the reference to the rights of minorities should be retained in the paragraph in its present form. It was suggested that the phrase "the rights of national minorities" be replaced by the phrase "fundamental freedoms", which had a broader meaning. The point was made that the question of the protection of human rights had already been addressed by numerous international instruments, which dealt with specific aspects of the question. It was therefore felt that it was inappropriate to refer to human rights in a general way, and that the paragraph should therefore be deleted since there were divergent views as to the violations of which human rights presented a threat to international peace and security. In particular, the view was expressed that the matters relating to the right of peoples to economic development would be one of the few aspects to be taken into account in the case. The point was made that the working paper should not single out a particular threat to international peace and security, and that a general reference to the maintenance of international peace and security was therefore preferable. It was suggested that the paragraph should be placed in the preamble, a suggestion to which there was opposition from some delegations. The view was also expressed that reference to human rights and the rights of national minorities in paragraph 20 was not appropriate, and should be deleted, as these were matters normally falling within the domestic jurisdiction of States.

88. Clarification was sought as to the meaning of the phrase "measures to build confidence and promote openness". Doubts were expressed as to the phrase "promote openness". There was the view, in this regard, that this was an issue which could lend itself to the interference in the internal affairs of a State. It was also felt that confidence-building and openness had a military connotation, and that these elements should be therefore placed in a separate paragraph. There was also the view that the question of openness was directly linked to the respect for human rights and should therefore be retained in the same paragraph. The point was made that the drafting of the paragraph raised a number of problems as to its meaning, in particular the

phrase "including the regions within the sphere of application". Clarification was also sought as to the meaning of the term "assistance." It was suggested that the phrase "should consider the possibility of taking coordinated steps with a view to providing assistance" be replaced by "should work with Member States".

89. In his reply, the sponsor expressed the view that the notion of human rights was unambiguous since, according to the numerous international instruments in this field to which most States were parties, human rights were international standards which had to be respected by all States, regardless of the level of economic and other development. He remarked further that respect for human rights was an integral part of the maintenance of international peace and security and regional security, and that the working paper would be incomplete without such a paragraph. The sponsor observed that the question of the rights of minorities was very topical and that confrontations between national minorities could escalate into regional conflicts. He underlined that confidence-building measures and the promotion of openness were instrumental in avoiding potential conflicts arising from the violation of human rights and the rights of minorities. He clarified that the concept of confidence and openness could apply to various fields, and explained that the paragraph was aimed at enhancing the coordination within regional organizations in areas covered by the paragraph.

90. With respect to paragraph 21, the point was made that more emphasis should be placed on cooperation between regional organizations and the United Nations. It was also felt that the formulation of the paragraph was too rigid, since the United Nations could not give instructions to regional organizations with respect to their functions.

91. The view was expressed that it would be appropriate to invite regional organizations, as well as officials of the United Nations dealing with the cooperation with regional organizations, to participate as observers in the Special Committee in order to assist the work of the Committee on this topic. The point was made that the issue of the participation of observers from regional organizations should be addressed in the Sixth Committee during the next session of the General Assembly. In this context, the Special Committee was informed of the contents of letters exchanged between the President of the Permanent Council of the Organization of American States and the President of the Security Council regarding cooperation between the United Nations and regional organizations.

92. The view was expressed that the working paper contained many far-reaching ideas and needed further study. One delegation reserved its position with regard to various ideas contained in the working paper and said that its participation in the discussion of the working paper did not mean that it endorsed the ideas contained therein.

93. The sponsor thanked the members of the Committee for an active and interesting discussion of the working paper and stated that his delegation agreed with the request of the Chairman to submit a revised version of the working paper at the next session of the Special Committee, taking into account the comments made during the discussion of the working paper. The view was expressed that the comments made during the discussion of the working paper should be fully taken into account.

94. It was agreed that the question of the title of the working paper as well as its preamble would be examined at a later stage.

B. Consideration of the working paper entitled "New issues for consideration in the Special Committee" submitted by the Russian Federation

95. At its 17th meeting, the Working Group began its consideration of the working paper submitted by the Russian Federation entitled "New issues for consideration in the Special Committee" (A/AC.182/L.65 and Corr.1), the text of which is reproduced in paragraph 14 of the report of the Special Committee to the General Assembly at its forty-fifth session. 4/

1. Introduction of the working paper by the sponsor

96. In introducing the working paper, the sponsor observed that radical changes had occurred in the international political climate since 1990 when the working paper was first submitted. As a result of those changes, the importance of enhancing the effectiveness of the United Nations had gained further prominence. The proposals contained in the working paper were thus as timely as ever. In this connection, he referred to the Summit Meeting of the Security Council held on 31 January 1992, at which the question of enhancing the role of the United Nations had been addressed.

97. The sponsor expressed the view that the Special Committee should have a long-term programme of work on issues such as those mentioned in the working paper. He stressed in particular the need for the Special Committee to deal with the question of broadening the peacemaking efforts of the Secretary-General. The question of sanctions was to be approached from a global perspective. In this connection, he observed that the working paper before the Committee entitled "Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter" (A/AC.182/L.73) dealt with only one aspect of the problem. A wide range of measures of collective action should be envisaged in case of breach of the peace or failure by a State to comply with the decisions of the Security Council. Those measures included fact-finding by the Secretary-General, preventive and coercive actions by the Security Council, the implementation of Article 43 of the Charter, the use of the Military Staff Committee and the creation of regional subcommittees thereof.

98. Another issue that the Special Committee could deal with, the sponsor remarked, was the implementation of Article 40 of the Charter. He was also of the view that the Committee could further deal with the elaboration of a general instrument on the peaceful settlement of disputes, although a special body could also be established to draft such a document. He expressed the view that the Special Committee might, in the future, deal with the question of the new interpretation of the principle of non-intervention in the internal affairs of States.

99. The sponsor suggested that the report requested from the Secretary-General at the Summit Meeting of the Security Council of 31 January 1992 should include reference to the contribution of the Special Committee to the enhancement of the role of the United Nations.

2. General comments on the working paper

100. The working paper was generally welcomed. The point was made that it was a particularly relevant document given the recent changes in international relations and the issues discussed at the above-mentioned Summit Meeting of the Security Council. The view was expressed that the Special Committee, which had already made important contributions to the enhancement of the role of the United Nations, should continue to do so. Reference was made in this regard to the current proposals on the mandate of the Committee, on which it was said work should be completed first. The point was also made that the first proposal mentioned in the working paper relating to the improvement of cooperation between the United Nations and regional organizations was already the subject of a separate working paper submitted by the same delegation in document A/AC.182/L.72, which had received a thorough examination by the Committee at the current session.

101. The proposal in working paper A/AC.182/L.65 and Corr.1 concerning the broadening of the peacemaking efforts of the Secretary-General was widely supported. In this connection, the suggestion contained therein that the General Assembly consider thoroughly the Secretary-General's annual reports on the work of the Organization was particularly supported. It was further suggested that the Secretary-General could every three years make a statement containing an analysis of the international situation. The view was expressed that the report requested of the Secretary-General by the Summit Meeting of the Security Council should be examined by the Special Committee with a view to selecting new topics for consideration by the Committee.

102. With respect to the proposal on the elaboration of a general instrument on the peaceful settlement of disputes, doubts were expressed by some delegations as to the need for such an instrument. In this connection, the point was made that a number of documents existed in the field, including the Handbook on the Peaceful Settlement of Disputes prepared by the Secretary-General with the assistance of the Special Committee and recently adopted by the General Assembly for publication and wider dissemination. It was therefore felt that what was currently more important for the Committee was to stimulate the political will for the peaceful settlement of disputes. The point was made that regional procedures were already being developed to ensure mandatory third-party intervention and that the elaboration of a general instrument on the peaceful settlement of disputes might not be opportune. On the other hand, the view was expressed that it was important to elaborate a general instrument on the peaceful settlement of disputes, which would reflect the recent trend in international law. In this connection, the point was made that the past and present work of the Special Committee in the field provided a basis for such an endeavour.

103. With respect to the proposal relating to the ways and means of enhancing the Charter, the point was made that it was preferable not to have general guidelines on the issue, but to deal with it on a case-by-case basis. The

suggestion was made to examine the question of the implementation of the resolutions of the General Assembly.

104. Support was also expressed for the proposal relating to the strengthening of the preventive functions of the United Nations. However, reservations were voiced with regard to the establishment of an extensive network for monitoring and fact-finding, and it was suggested in this regard that better use should be made of existing facilities in the Secretariat. The point was made that, as mentioned in the working paper, explosive situations were often caused by socio-economic factors, and that this question should be addressed. But there was also the view that the Committee should not discuss these problems.

105. The point was made that the proposal to consider the question of the enhancement of the effectiveness of the United Nations system as a whole needed to be further developed.

106. The view was expressed that the Special Committee should consider the working paper at its next session, for the purpose of selecting topics for the future work of the Committee. In this connection, the hope was expressed that the working paper would be revised and certain proposals made more specific.

107. In his reply, the sponsor observed that the proposal regarding the elaboration of a general instrument on the peaceful settlement of disputes was timely and merited further consideration. In this connection, it was necessary to take into account the recent achievements and the current work being done at the global and regional levels in the field.

108. The sponsor stated that his delegation would submit a revised version of the working paper at the next session of the Committee, taking into account the comments made during the discussion of the working paper.

C. Consideration of the working paper on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter

109. At its 17th and 18th meetings the Working Group considered a working paper (A/AC.182/L.73), the text of which read as follows:

"IMPLEMENTATION OF THE PROVISIONS OF THE CHARTER OF THE UNITED NATIONS RELATED TO ASSISTANCE TO THIRD STATES AFFECTED BY THE APPLICATION OF SANCTIONS UNDER CHAPTER VII OF THE CHARTER

"Working paper* submitted by Bangladesh, Bulgaria, Lebanon, Philippines, Romania, Seychelles, Uruguay and Viet Nam

"1. In today's conditions of economic interdependence, the implementation of comprehensive economic sanctions by third States may place an extremely heavy burden on their economies.

"2. The imposition of sanctions against a State under Chapter VII of the Charter of the United Nations may require the joint efforts of Member States to offer assistance to third States economically affected by the sanctions. This assistance can also be considered as ancillary, strengthening and further ensuring the cooperation in the application of measures against an offender State.

"3. All provisions of Chapter VII are of equal value and importance for the effective carrying out of preventive or enforcement measures envisaged therein. These provisions should be interpreted and implemented in their entirety.

"4. Article 49 of the Charter of the United Nations spells out the obligation of the Member States to join in affording mutual assistance in carrying out measures decided upon by the Security Council in conformity with Chapter VII of the Charter.

"5. Article 50 of the Charter entitles States which find themselves confronted with special economic problems as a result of the carrying out of preventive or enforcement measures taken by the Security Council against any other State, to consult the Council with regard to a solution of those problems.

"* The present working paper is of a preliminary nature and is intended to initiate further consideration of this item with the participation of all interested delegations in order to come to generally agreed specific conclusions.

"6. Recently, with respect to the sanctions imposed by the Security Council in resolution 661 (1990), requests were made to the Security Council by 21 States Members of the Organization pursuant to Article 50, aiming at the provision of assistance to those States in order to mitigate the adverse economic and social problems confronted by them.

"7. In response to those requests, the Security Council Committee established by resolution 661 (1990) adopted recommendations to the President of the Security Council (see S/22021). Under paragraph 3 of the recommendations, the Committee appealed to all States on an urgent basis to provide immediate economic assistance to the applicant States. Under paragraph 4, the Committee invited the competent organs and specialized agencies of the United Nations system to review their programmes of assistance to the applicant States.

"8. As stated in the memorandum submitted by those 21 States (S/22382), 'the problems affecting these countries persist, and in certain respects have been aggravated, while the appeals launched pursuant to the recommendations of the Security Council Committee and addressed to all concerned by the Secretary-General, have not evoked responses commensurate with the urgent needs of the affected countries. Assistance to the affected countries in accordance with Article 50 of the Charter would reaffirm international solidarity and unity'.

"9. In response to the above-mentioned requests, the President of the Security Council issued a statement (S/22548), in which the members of the Council made 'a solemn appeal to States, international financial institutions and United Nations bodies to respond positively and speedily to the recommendations of the Security Council Committee established under resolution 661 (1991) for assistance to countries which find themselves confronted with special economic problems arising from the carrying out of those measures imposed by resolution 661 (1991) and which have invoked Article 50'.

"10. The lack of adequate arrangements and procedures for the implementation of Articles 49 and 50, as well as of the decisions of the Security Council taken in conformity with the provisions of those Articles, does not facilitate and even may prevent the solution of problems, as envisaged therein. The concerns and special economic problems of the applicant States, as stated in the above-mentioned memorandum, remain unsettled until now.

"11. The Secretary-General, in his report on the work of the Organization, 1/ has put forward the need for supplementing Article 50 of the Charter by appropriate agreements creating obligations to assist concretely third States affected by the implementation of sanctions imposed upon a State in breach of its obligations under the Charter.

"12. This issue warrants urgent consideration aimed at bringing about the proper application of Articles 49 and 50 of the Charter, which in turn

would enhance the implementation of Chapter VII of the Charter. The institutionalization of mechanisms for responding quickly to requests for assistance in such situations would mitigate the adverse economic and social problems confronted by them and strengthen the cooperation among States in the implementation of sanctions. To this end, it is necessary to elaborate appropriate arrangements for ensuring the provision of such assistance."

"Notes

"1/ Official Records of the General Assembly, Forty-sixth Session, Supplement No. 1 (A/46/1)."

1. Introduction of working paper A/AC.182/L.73 by one of its sponsors

110. In introducing working paper A/AC.182/L.73, one of the sponsors announced that the following had become sponsors of the document: Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Cyprus, Ecuador, Egypt, El Salvador, Guatemala, Honduras, India, Iran (Islamic Republic of), Malta, Mauritania, Mexico, Mozambique, Nepal, Nicaragua, Nigeria, Pakistan, Panama, Paraguay, Peru, Spain, Sri Lanka, Sudan, United Republic of Tanzania, Vanuatu, Venezuela and Yugoslavia. The representative emphasized that, with the recent developments in the Gulf, Chapter VII of the Charter of the United Nations had assumed new timeliness. She said that a number of States had suffered economic consequences from the application of sanctions imposed under Security Council resolution 661 (1990). The representative recalled that 21 States, affected by the application of those sanctions, had submitted to the President of the Security Council a request for assistance under Article 50 of the Charter. In that context, the question of the implementation of Article 50 had acquired renewed urgency. The representative also recalled that Security Council resolution 669 (1990) had entrusted the Security Council Committee established under resolution 661 (1990) with the task of examining requests for assistance under Article 50 and of making recommendations to the President of the Security Council for appropriate action. She also recalled that the Committee had appealed to all States on an urgent basis to provide immediate economic assistance to the applicant States and invited the competent organs and specialized agencies of the United Nations system to review their programmes of assistance to such States. Based on those recommendations, the Secretary-General had addressed letters to States and the concerned organs and agencies of the United Nations system expressing the need to assist the States affected by the application of the sanctions. However, the representative remarked, as had been stated in the memorandum addressed by the 21 applicant States to the President of the Security Council contained in document S/22382, that the responses received were not commensurate with the urgent needs of the affected countries; they were, in her view, limited in number and to a large extent unsatisfactory. The representative further referred to the solemn appeal for assistance to the countries in question, contained in a statement

issued by the President of the Security Council and reproduced in paragraph 9 of the working paper.

111. In the opinion of the representative, the developments described above highlighted the need for establishing an automatic mechanism to ensure adequate response to requests for assistance submitted under Article 50. The establishment of such a machinery would not be in contradiction with compliance with Security Council decisions under Chapter VII, an obligation imposed upon Member States under Article 25 of the Charter. Such machinery would rather promote the implementation of Chapter VII, as it would diminish the risk of resistance to the application of sanctions by third States seriously affected by them.

112. The representative expressed the view that Article 50 should be regarded in the broader context of Chapter VII, and that all the provisions of that Chapter were to be viewed as equally important. In that sense, the representative referred to the obligation, imposed upon States by Article 49, to join in affording mutual assistance in carrying out the measures decided upon by the Security Council. She pointed out that the Collective Measures Committee, established by the General Assembly in its resolution 377 A (V) of 3 November 1950, had concluded in its first report that assistance to third States strengthened the cooperation in the application of sanctions, and that the type of assistance would depend upon the economy of the nation to be assisted. The same concept of "mutual assistance", she recalled, was also contained in Article XVI, paragraph 3, of the Covenant of the League of Nations. According to the representative, when Article 49 was adopted, the basic idea was that costs arising from the application of economic sanctions had to be shared, and this idea of an equitable sharing of the economic burdens of such measures could also be found in the above-mentioned report of the Collective Measures Committee.

113. On the question of who had to bear such costs, the representative stressed that secondary effects of sanctions on third States had to be repaired and the economic status quo had to be restored for these States, because those effects had affected their rights. She then raised the question whether these losses could be borne by the Organization, in which case Article 17 of the Charter would have to be resorted to. An answer to these questions would depend, she concluded, on the specific mechanisms that would be adopted, mentioning some by way of example. She added that to this effect it would be useful if the Secretary-General addressed this particular question within the context of the analysis and recommendations that he had been called upon to make on ways of strengthening the capacity of the United Nations for preventive diplomacy, peacemaking and peace-keeping.

2. General comments on the working paper

114. Since the working paper was of a general nature, the Working Group decided to hold a general debate on it. The working paper was regarded as a significant and thought-provoking contribution to the work of the Committee. A number of considerations expressed by its sponsor were endorsed in the course of the general debate.

115. Broad support was given by many delegations to the basic concepts underlying the question under consideration, such as the idea of sharing the costs of a system of collective security, the principle of "mutual assistance", and the need for studying specific techniques for providing assistance to States affected by the implementation of sanctions. In this respect, it was mentioned that the work done in 1951 and 1952 by the Collective Measures Committee would facilitate future consideration of the question. The proposal that the Secretary-General should address the question of strengthening and making more efficient the implementation of Articles 49 and 50 of the Charter, in the report requested from him by the Security Council at its Summit Meeting, was also endorsed by a number of representatives. In this connection, the view was expressed that the availability of the analytical information on the existing experience and practice of the United Nations, as well as on the conclusions derived from it, would facilitate the future work of the Special Committee. It was further proposed that the conclusions emerging from a discussion on the question could be a useful basis for practical recommendations by the General Assembly on the matter.

116. Some delegations stressed that the working paper did not contain any specific solution to the problem of how to address the question of assistance to third States affected by the imposition of sanctions. In this connection, one representative proposed the establishment of a fund of mandatory contributions to assist such States; another proposed that ways could be developed for providing alternative sources of assistance to those States; a third representative invited the Special Committee to consider the examples of assistance provided by the States Members of the European Community, as described in document S/22542.

117. On the question of the most appropriate forum to study the matter, while some representatives believed that the question fell within the competence of the Special Committee, others stressed that the Committee should work in strict cooperation with bodies such as the Security Council Committee established under resolution 661 (1990) or another special committee that might be established along the same lines.

118. Some representatives remarked that the question considered in the working paper could be regarded as a particular aspect of a broader problem. One of them reiterated the interest of his delegation in the adoption of guidelines on "sanctions management". He pointed out that although each situation had its own specifics the adoption of such guidelines might facilitate actions of the Security Council under Chapter VII and clarify what was expected from Member States in the implementation of sanctions. Such guidelines could also help in determining the humanitarian circumstances under which an exception to the imposition of sanctions could be granted and in dealing with the particular economic problems faced by third States.

119. Other representatives, while understanding the concerns underlying the working paper, adopted a more cautious approach. Some of them stressed, in particular, that the application of sanctions was an obligation imposed upon

States by Article 25 of the Charter without preconditions, that Article 50 confined itself to creating a right to "consult" the Security Council, that it referred to "preventive or enforcement measures" and not only to economic sanctions and that it was not the function of the Committee to find solutions to "specific cases".

120. One of those representatives mentioned that the consideration of the economic consequences of sanctions should not unduly limit the actions of the Security Council, and therefore the most appropriate solution to the question addressed in the working paper could be the development of generally acceptable procedures aimed at facilitating consultations between the Security Council and the States confronted by particular economic problems.

121. Another representative expressed doubts as to the idea that a solution to the situations under consideration could be found in the framework of a legal body such as the Special Committee. The representative also cautioned against criticizing the actions of the Security Council, which seemed implicit in the working paper, and suggested that the Committee concentrate on measures to coordinate the efforts of States and international agencies in this area.

122. In her summing up of the debate on the working paper, the sponsor that introduced the working paper expressed the view that the idea of establishing a permanent committee on sanctions or an ad hoc committee each time the question of the imposition of sanctions arose, merited consideration. In her view, the question of the equitable distribution of costs needed further study. Taking into account the views expressed during the debate, the sponsors submitted a revised version of the working paper (A/AC.182/L.73/Rev.1), for the future consideration of the Special Committee, which read as follows:

"Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter*

"Working paper* submitted by Bangladesh, Bolivia, Brazil, Bulgaria, Chile, Colombia, Costa Rica, Cuba, Cyprus, Ecuador, Egypt, El Salvador, Guatemala, Honduras, India, Iran (Islamic Republic of), Lebanon, Malta, Mauritania, Mexico, Mozambique, Nepal, Nicaragua, Nigeria, Pakistan, Panama, Paraguay, Peru, Philippines, Romania, Seychelles, Spain, Sri Lanka, Sudan, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam and Yugoslavia**

"1. In today's conditions of economic interdependence, the implementation of economic sanctions under Chapter VII of the Charter of the United Nations may place an extremely heavy burden on the economies of third States.

"2. The imposition of sanctions against a State under Chapter VII of the Charter of the United Nations may require the joint efforts of Member States to offer assistance to third States economically affected by the sanctions. This assistance can also be considered as ancillary, strengthening and further ensuring cooperation in the application of measures against an offender State.

"3. All provisions of Chapter VII are of equal importance for the effective carrying out of preventive or enforcement measures envisaged therein. These provisions should be interpreted and implemented in their entirety.

"4. Article 49 of the Charter of the United Nations spells out the obligation of the Member States to join in affording mutual assistance in carrying out measures decided upon by the Security Council in conformity with Chapter VII of the Charter.

"5. Article 50 of the Charter entitles States which find themselves confronted with special economic problems as a result of the carrying out of preventive or enforcement measures taken by the Security Council against any other State, to consult the Council with regard to a solution of those problems.

"* The present working paper is of a preliminary nature and is intended to initiate further consideration of this item with the participation of all interested delegations in order to come to generally agreed specific conclusions.

"** The delegation of Indonesia informed the Secretariat the it had also become a sponsor of the working paper.

"6. Recently, with respect to the sanctions imposed by the Security Council in resolution 661 (1990), requests were made pursuant to Article 50 to the Security Council by 21 States Members of the Organization, aiming at the provision of assistance to those States in order to mitigate the adverse economic and social problems confronted by them as a result of carrying out their obligations under the relevant provisions of resolution 661 (1990).

"7. In response to those requests, the Security Council Committee established by resolution 661 (1990) adopted recommendations to the President of the Security Council (see S/22021). Under paragraph 3 of the recommendations, the Committee appealed to all States on an urgent basis to provide immediate economic assistance to the applicant States. Under paragraph 4 the Committee invited the competent organs and specialized agencies of the United Nations system to review their programmes of assistance to the applicant States.

"8. As stated in the memorandum submitted by those 21 States (S/22382), 'the problems affecting these countries persist, and in certain respects have been aggravated, while the appeals launched pursuant to the recommendations of the Security Council Committee and addressed to all concerned by the Secretary-General, have not evoked responses commensurate with the urgent needs of the affected countries. Assistance to the affected countries in accordance with Article 50 of the Charter would reaffirm international solidarity and unity'.

"9. In response to the above-mentioned requests, the President of the Security Council issued a statement (S/22548), in which the members of the Council made 'a solemn appeal to States, international financial institutions and United Nations bodies to respond positively and speedily to the recommendations of the Security Council Committee established under resolution 661 (1990) for assistance to countries which find themselves confronted with special economic problems arising from the carrying out of those measures imposed by resolution 661 (1990) and which have invoked Article 50'.

"10. The lack of adequate arrangements and procedures for the implementation of Articles 49 and 50, as well as of the decisions of the Security Council taken in conformity with the provisions of those Articles, does not facilitate and even may prevent the solution of problems, as envisaged therein. The concerns and special economic problems of the applicant States, as stated in the above-mentioned memorandum, remain unsettled until now.

"11. The Secretary-General, in his report on the work of the Organization, 1/ has put forward the need for supplementing Article 50 of the Charter by appropriate agreements creating obligations to assist concretely third States affected by the implementation of sanctions imposed upon a State in breach of its obligations under the Charter.

"12. This issue warrants urgent consideration aimed at bringing about the proper application of Articles 49 and 50 of the Charter, which in turn would enhance the implementation of Chapter VII of the Charter. The institutionalization of mechanisms for responding quickly to requests for assistance in such situations would mitigate the adverse economic and social problems confronted by third States and strengthen the cooperation among all States in the implementation of sanctions. To this end, it is necessary to elaborate appropriate arrangements for ensuring the provision of such assistance."

"Notes

"1/ Official Records of the General Assembly, Forty-sixth Session, Supplement No. 1 (A/46/1)."

D. Consideration of the working paper submitted by Cuba entitled "Strengthening of the role of the United Nations in the maintenance of international peace and security"

123. At its 19th meeting, on 19 February 1992, the Working Group considered the working paper submitted by Cuba (A/AC.182/1992/CRP.2), the text of which read as follows:

"STRENGTHENING OF THE ROLE OF THE UNITED NATIONS IN THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY

"STRENGTHENING OF THE ROLE OF THE ORGANIZATION AND ENHANCEMENT OF ITS EFFICIENCY

"Working paper submitted by Cuba

"The changes that have taken place on the world stage present the world community assembled at the United Nations with new and pressing challenges. Although what we knew as the East-West confrontation has disappeared and the dangers of a nuclear confrontation have thus subsided, the unjust disparities - both economic and also political and military - between the rich and industrialized North and the underdeveloped and impoverished South, remain and continue to grow.

"Existing conditions should encourage efforts to tackle constructively the remaining sources of tension and instability and to resolve them as soon as possible within the context of the principles, purposes and objectives contained in the Charter of the United Nations.

"The expansion in the membership of the United Nations - the number of Members has more than tripled since the Organization was founded - is a factor which cannot be ignored, either from the political and economic standpoint or from the institutional and structural standpoint. The positive contribution this has made to the strengthening of the role of the United Nations in the maintenance of international peace and security must be fully acknowledged and incorporated in the functioning of the Organization. Accordingly, the expansion in the membership of the United Nations must be reflected in the composition of the various organs of the United Nations, those set forth in the Charter and others, on the basis of a correct application of the principle of equitable geographical distribution, thereby facilitating the active participation of all Members of the United Nations on just and equal terms in the substantive activities of the Organization.

"The mandates of the various organs of the United Nations and the functional relationships between them - primarily the General Assembly, the Security Council and the Secretariat - must not only be preserved but strengthened in accordance with the relevant provisions contained in the Charter, so as to create in the United Nations a mesh in which all legitimate interests may be protected, all sensitive issues tackled and in which the democratization of the United Nations may proceed based on the universal nature of its membership, with truly equal rights and duties for all. Under the present circumstances, this is one of the essential premises for the strengthening of the role of the Organization in the maintenance of international peace and security.

"Within this context the unrepresentative nature of the Security Council, the fact that some members of that organ are not subject to periodic confirmation by the international community by means of democratic procedures and enjoy special privileges which go far beyond the exercise of the "veto power", which was included in the Charter because of the conditions that prevailed in 1945, must be reviewed as a matter of urgency, since they are key elements which influence not only the exercise of democracy within the United Nations but also the role which the Organization must play in the maintenance of international peace and security.

"Likewise, steps should be taken to ensure that the Security Council is accountable to the General Assembly so that it complies not only with the letter but also the spirit of the relevant provisions of the Charter and also to ensure the transparency of its discussions and decision-making process; at the same time all efforts to expand, implicitly or explicitly, the functions and powers of the Security Council to spheres beyond the mandate conferred on it by the Charter, must be resisted, so as to preserve not only the relevance and integrity of other organs of the Organization, but also to prevent actions which might ultimately lead to further imbalances and breaches of the democratic principles which must govern the activities of the Organization.

"On the basis of, inter alia, Articles 10; 11, paragraph 1; 12, paragraph 2; 15, paragraph 1; and 24 relating to the functions and powers of the General Assembly and the Security Council, the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, within the context of its mandate, should examine and formulate guidelines or recommendations on, inter alia, the following matters:

"(a) Adoption of measures to improve, on the basis of the respective mandates clearly set forth in the Charter, fulfilment of the functions and responsibilities of the General Assembly and the Security Council in the maintenance of international peace and security;

"(b) Improvement of compliance with the Security Council's obligation to inform the General Assembly by presenting substantive annual and special reports on all issues it has considered during the period in question, to which end the format and content of such reports should be radically changed and a real measure of the responsibility assumed by the Council vis-à-vis the Assembly introduced so that these reports are not simply a list of actions carried out;

"(c) Strengthening of the faculties of the General Assembly to formulate, after receiving and carefully examining the reports of the Security Council, such recommendations or proposals as it may deem necessary in relation to the functions and responsibilities of that organ;

"(d) Enhancement of the transparency of the Security Council's activities, including discussions and actions taken in informal consultations, which increasingly have tended to replace the formal meetings of that organ, in exercise of the principle of accountability of the Council to the General Assembly in whose name it operates;

"(e) Establishment by the General Assembly of guiding principles for the use of armed force, by or in the name of the United Nations, within the context of the provisions of Chapter VII of the Charter;

"(f) Adoption of measures to democratize the Security Council, including review of its composition with a view to its expansion and improvement in light of the principle of equitable geographical distribution, and review of the need for and desirability of removing the special privileges enjoyed by the permanent members of the Council, for example the "veto power" and the fact that they do not periodically have to be democratically confirmed by the international community to remain members of that organ."

1. Introduction of the working paper by the sponsor

124. In introducing the working paper, the sponsor indicated that it should be considered under the item "Maintenance of international peace and security". He pointed out that the working paper did not contain any specific proposals

and that it rather raised issues to be discussed. He also indicated that, as could be seen during the general debate, the concerns expressed in it were shared by other delegations, which had spoken in favour of the reform, revitalization and democratization of the United Nations in the light of fundamental changes in the world since the adoption of its Charter and on the basis of its basic principles. He stated that this democratization and reform of the Organization should be conducted in a balanced way and that the Security Council should not be exempt from this process.

2. General comments on the working paper

125. Since the working paper was of a general nature, the Working Group decided to hold a general debate on it, rather than a paragraph-by-paragraph discussion.

126. Various delegations expressed the view that the document contained valuable ideas and suggestions in the area of enhancement of the effectiveness of the United Nations and strengthening its role in the maintenance of international peace and security in the light of radical changes in international relations which had taken place since the adoption of the Charter of the Organization. It was suggested in this connection that the composition of the Security Council, its functioning and its relation to the General Assembly should be reviewed in accordance with the fundamental principles of the Charter of the United Nations so as to achieve its democratization. This aim could be accomplished, in their view, through expanding the membership of the Security Council on the basis of equitable geographical representation, by introducing a necessary degree of transparency in its work and by improving the methods of its activities which affected the interests of the whole international community. It was also suggested in this respect that the role of the General Assembly in the maintenance of international peace and security should be strengthened and that its relationship with the Security Council should be improved.

127. Some of the delegations that supported this approach indicated that the working paper submitted by Cuba presented a good basis for consideration within the framework of the Special Committee. Others suggested also the possibility of dealing with it in the Sixth Committee during the forty-seventh session of the General Assembly.

128. Other delegations, however, disagreed with the views expressed in the working paper. They pointed out that the working paper could not be considered as a basis for a meaningful discussion. It would not strengthen but rather would seriously undermine the current structure of the United Nations which had stood the test of time and the validity of which had been so well demonstrated by the events of the past months. Hence, the proposals contained in the document would not seem to serve the interest of the international community. Thus, it was noted, the document raised serious objections and it should not be taken up for discussion by the Special Committee, which already had quite a substantive agenda to work on.

129. Still other delegations expressed the view that the working paper had been submitted by Cuba at the very end of the session of the Special Committee and that it raised extremely sensitive issues that required extensive consultations both with the capitals and with other delegations. Since there was too little time for reflection on the issues raised in it, they were unable to present their pos tion on it at the current session but would be able to do so at a later stage, during the next session of the General Assembly.

130. In his reply to the statements made during the debate, the sponsor expressed his gratitude for the comments made during the discussion and his satisfaction that various delegations considered that the working paper contained useful ideas that deserved further consideration in the Special Committee. The sponsor also pointed out that the main idea of the proposal was not to erode the Charter of the United Nations, but - on the contrary - to strengthen it and the role of the United Nations by adjusting them to existing realities in the modern world.

131. It was agreed that the text of the working paper submitted by Cuba and views expressed during the debate on it in the Working Group would be reflected in the present report of the Special Committee under the item "Maintenance of international peace and security".

IV. PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES

Statement of the Rapporteur

132. In connection with this topic, the Working Group had before it document A/45/742, paragraph 5 of which contained the text of the draft entitled "United Nations rules for the conciliation of disputes between States", submitted by Guatemala to the General Assembly at the forty-fifth session and subsequently referred to the Special Committee for consideration in accordance with General Assembly resolution 46/58 of 9 December 1991. The text of the proposal read as follows:

"UNITED NATIONS RULES FOR THE CONCILIATION OF DISPUTES BETWEEN STATES

"CHAPTER I

"APPLICATION OF THE RULES

"Article 1

"1. These rules apply to the conciliation of disputes between States which it has not been possible to settle by means of negotiation or amicable methods of settlement other than conciliation, whether the disputes are of a legal nature or not. These rules do not apply, however, to disputes of a purely legal nature in which no questions of responsibility or reparation arise and in which there is no disagreement as regards the facts.

"2. The States applying these rules may at any time agree to exclude or amend any of their provisions. The State initiating the conciliation may propose an amended version of the rules. The State to which these rules are proposed may do the same.

"CHAPTER II

"INITIATION OF THE CONCILIATION PROCEEDINGS

"Article 2

"1. The State which initiates conciliation proceedings in accordance with these rules shall send the other State a written invitation to conduct a process of conciliation in accordance with these rules, and identifying and describing the subject of the dispute. In the invitation, the State initiating the conciliation proceedings shall indicate the amendments it proposes to the rules, if any, and its choice as regards the number of conciliators. The invitation shall also indicate the language or languages which are to be used in the conciliation proceedings and also the linguistic or other services which the conciliator or conciliators may need.

"2. For the preparation of the invitation, the State initiating the proceedings may request the assistance and advice of the Secretary-General of the United Nations.

"3. The conciliation proceedings shall begin as soon as possible after the State to which the invitation has been sent has accepted it or, if it is not accepted, the States have agreed to apply an amended version of these rules.

"4. If the States cannot reach agreement on the definition of the dispute, they may jointly request the assistance of the Secretary-General of the United Nations to resolve the difficulty.

"CHAPTER III

"CASES IN WHICH MORE THAN ONE STATE HAS THE SAME INTEREST WITH REGARD TO THE DISPUTE

"Article 3

"When more than two States are involved in the same dispute, the States which have the same viewpoints and the same interest shall be considered and shall act jointly as a single party.

"CHAPTER IV

"NUMBER OF CONCILIATORS

"Article 4

"There may be a sole conciliator, three conciliators or five conciliators. In the two latter cases the conciliators shall form a commission.

"CHAPTER V

"APPOINTMENT OF CONCILIATORS

"Article 5

"For the appointment of conciliators the parties shall take into account the system of investigation and conciliation envisaged in General Assembly resolution 268 D (III) of 28 April 1949 and any other similar system established by a regional body in which both parties participate. If the dispute involves issues of fact only, they shall take into account the system envisaged in General Assembly resolution 2329 (XXII).

"Article 6

"If the parties have agreed that a sole conciliator shall be appointed, that conciliator shall be appointed by agreement between them. If such an agreement is not reached within two months, the conciliator shall be appointed by the Government of a third State, chosen by agreement between the parties or, if no such agreement is reached within two months, by the President of the International Court of Justice. If the President is a national of one of the parties, the appointment shall be made by the Vice-President or the next judge of the Court in order of seniority who is not a national of the parties. The conciliator shall not have the nationality of any of the parties, shall not reside or have resided habitually in their territory and shall not be or have been in the service of any of them.

"Article 7

"If the parties have agreed that three conciliators shall be appointed, each one of them shall appoint a conciliator who may be of its own nationality. The parties shall appoint by mutual agreement the third conciliator, who may not be of the nationality of any of the parties or of the other conciliators. The third conciliator shall act as chairman of the commission. If he is not appointed within two months of the appointment of the conciliators appointed individually by the parties, the third conciliator shall be appointed by the Government of a third State chosen by agreement between the parties or, if such agreement is not obtained within two months, by the President of the International Court of Justice. If the President is a national of one of the Parties, the appointment shall be made by the Vice-President or the next judge of the Court in order of seniority who is not a national of the parties. The third conciliator shall not reside or have resided habitually in the territory of the parties nor be or have been in their service.

"Article 8

"1. If the parties have agreed that five conciliators should be appointed, each one of them shall appoint a conciliator who may be chosen from among its nationals. The other three conciliators, one of whom shall be chosen with a view to his acting as chairman, shall be appointed by agreement between the parties from among nationals of third States and shall be of different nationalities. None of them shall reside or have resided habitually in the territory of the parties or be or have been in their service. None of them shall have the same nationality as that of the other two conciliators.

"2. If the appointment of the conciliators whom the parties are to appoint jointly has not been effected within three months, they shall be appointed by the Government of a third State chosen by agreement between the parties or, if such an agreement is not reached within three months, by the President of the International Court of Justice. If the President is a national of one of the parties, the appointment shall be made by the Vice-President or the next judge in order of seniority who is not a

national of the parties. The Government or member of the International Court of Justice making the appointment shall also decide which of the three conciliators shall act as chairman.

"3. If at the end of the three-month period referred to in the preceding paragraph, the parties have been able to appoint only one or two conciliators, the two conciliators or the conciliator still required shall be appointed in the manner described in the preceding paragraph. If the parties have not agreed that the conciliator or one of the two conciliators whom they have appointed shall act as chairman, the Government or member of the International Court of Justice appointing the two conciliators or the conciliator still required shall also decide which of the three conciliators shall act as chairman.

"4. If, at the end of the three-month period referred to in paragraph 2 of this article the parties have appointed three conciliators but have not been able to agree which of them shall act as chairman, the chairman shall be chosen in the manner described in that paragraph.

"Article 9

"In the event that a sole conciliator dies, resigns or for any other reason is prevented from continuing to discharge his duties, a successor shall be appointed as soon as possible in the same way as the original conciliator was appointed. The vacancies which may occur in a conciliation commission as a result of death, resignation or any other cause shall be filled as soon as possible by the method established for appointing the members to be replaced.

"CHAPTER VI

"RULES APPLICABLE TO CONCILIATION BY A SOLE CONCILIATOR

"Article 10

"The conciliator, acting in an independent and impartial manner, shall seek to ensure that the parties reach an amicable settlement of the dispute. To that end, he shall be guided by principles of objectivity, fairness and justice, giving consideration to, among other factors, the rights and obligations of the parties and the facts and circumstances of the case. If no settlement is reached during consideration of the dispute, he shall draw up and communicate to the parties, in writing, such terms of settlement as he deems appropriate.

"Article 11

"1. After his appointment, the conciliator shall request each of the parties to submit to him a statement, in writing, describing the elements of the dispute and the points at issue, accompanied by any information or evidence which the party considers necessary or useful. Each party shall send the other a copy of this statement and the annexes thereto.

"2. The conciliator may request any of the parties to submit to him an additional statement, in writing, concerning its original statement and concerning the facts and grounds in support thereof, accompanied by any information or evidence which the party considers necessary or useful. The submitting party shall send a copy of the additional statement and the annexes thereto to the other party.

"3. At any stage of the conciliation proceedings, the conciliator may request any of the parties to submit any other documents or information which he considers necessary or useful; such documents or information shall be communicated to the other party.

"Article 12

"1. The conciliator shall conduct the proceedings in such a manner as he considers appropriate, taking into account the circumstances of the case, the wishes the parties may express, and the need for a speedy settlement of the dispute.

"2. The conciliator may hear the parties jointly or separately and in any place.

"3. At any stage of the proceedings, the conciliator may make proposals for a settlement of the dispute.

"4. In putting forward proposals and terms of settlement, the conciliator shall refrain from presenting any final conclusions with regard to the facts at issue or from ruling formally on issues of law, unless the parties have jointly requested him to do so.

"5. No minutes shall be drawn up of the meetings between the parties, or one of them, and the conciliator, nor of the evidence submitted.

"6. A certified copy of any document submitted by a party as evidence shall be provided to the other party.

"7. If a party submits an original document as evidence, it shall be entitled to have that document returned to it; a certified copy of the document shall remain in the possession of the conciliator.

"Article 13

"1. The work of the conciliator, including his meetings with one or both the parties, which shall be private, shall be secret. The conciliator and the parties shall refrain from divulging any documents or oral statements, or any communication concerning the progress of the proceedings, without the prior approval of both parties.

"2. If any indiscretion occurs during the proceedings, the conciliator may determine its possible effect on the continuation of such proceedings.

"3. Except in the case of evidence submitted during the conciliation proceedings which the parties may submit in any judicial or arbitral proceedings held after the conclusion of the conciliation proceedings, the obligation to respect the secrecy of the conciliation proceedings shall remain in effect for the parties and for the conciliator after the proceedings are concluded and shall extend to the terms of settlement and any proposal made by the conciliator, whether accepted by the parties or not. After the conclusion of the proceedings the parties may, by agreement, make all or some of the documents available to the public or authorize the publication of all or some of them.

"4. Upon conclusion of the proceedings, the conciliator shall destroy every original or copy in his possession of any written material submitted in accordance with article 38.

"5. Upon conclusion of the proceedings, the conciliator shall deposit a set of the documents with each of the parties.

"Article 14

"1. If the terms of settlement are not accepted by both parties and the latter do not wish further efforts to be made to reach agreement on different terms, the proceedings shall be terminated.

"2. If the terms of settlement are not accepted by both parties but the latter wish efforts to reach agreement on different terms to continue, new proceedings shall be initiated, to which all the provisions of the present chapter shall apply, except that, if the conciliator has no objection, the parties may, with respect to the new proceedings, reduce by mutual agreement the time-limit mentioned in article 15.

"Article 15

"Without prejudice to the right of the parties, acting by mutual agreement, and of the conciliator, to extend this time-limit and the possible application of article 13, paragraph 2, or of article 45, the conciliator shall conclude his work within two months from the date on which the procedures mentioned in article 11, paragraph 1, were completed.

"Article 16

"The conciliator may, at any time, request the Secretary-General of the United Nations for advice and assistance with regard to the administrative and procedural aspects of his work.

"CHAPTER VII

"RULES APPLICABLE TO CONCILIATION BY COMMISSION

"Fundamental principles

"Article 17

"The commission shall attempt to clarify the issues in dispute and to help the parties reach an agreement. It shall seek to obtain all information necessary or useful for the attainment of those objectives. If no settlement is reached during consideration of the dispute, the commission shall draw up and communicate to the parties, through a report of its chairman, such terms of settlement as it deems appropriate.

"Article 18

"The commission shall be guided by principles of objectivity, fairness and justice, giving consideration to, among other things, the rights and obligations of the parties and the facts and circumstances of the case.

"Procedures of the commission

"Article 19

"While adhering to the procedural provisions contained in chapters VII and XVIII of these rules, the commission shall adopt its own procedures.

"Article 20

"1. Before the commission begins its work, the parties shall designate their representatives and shall communicate the names of such representatives to the chairman of the commission. The chairman shall determine, in agreement with the parties, the place and date of the commission's first meeting, to which the members of the commission and the representatives shall be convoked.

"2. Before the first meeting of the commission, its members may meet informally to deal with administrative and procedural matters.

"Article 21

"The representatives of the parties may be assisted by counsel and experts appointed by the parties.

"Article 22

"1. At its first meeting, the commission shall appoint a secretary, who may be a United Nations official. It shall then hear initial statements from the parties. If it decides that the information provided by the parties so permits, the commission shall agree on the method to be used to consider the dispute and, in particular, whether the parties should be invited to submit written statements and in what order and within what time-limits such statements must be submitted, as well as the dates when, if this is required, representatives and counsel will be heard. The decisions taken by the commission in this regard may be amended at any later stage of the proceedings.

"2. The secretary of the commission shall not have the nationality of any of the parties, shall not reside or have resided habitually in their territory and shall not be or have been in the service of any of them.

"3. Except as provided in article 28, paragraph 1, the commission shall not hear statements by the representative or counsel of a party without having given the other party the opportunity to be represented at the hearing in question.

"Article 23

"1. The parties shall facilitate the commission's work and, in particular, shall do everything possible to provide it with whatever documents and information may be relevant.

"2. The commission shall accept any request by the parties that persons whose testimony they consider necessary or useful be heard, that experts be consulted or that local investigations be conducted. It may, however, in any case in which it considers it neither necessary nor useful to accept such a request, ask the party making the request to reconsider it.

"3. The parties shall use the means available to them to enable the commission to enter their territory and, in accordance with their laws, to convoke and hear witnesses or experts and visit any part of their territory to conduct local investigations. Articles 19 to 29 of the Hague Convention 1/ for the Pacific Settlement of International Disputes of 18 October 1907 shall apply in such cases.

"Article 24

"If the commission establishes that the parties disagree on issues of fact, or considers it necessary or useful to clarify facts which the parties do not seem to have taken into account, it may, motu proprio, consult experts, conduct local investigations or question witnesses. In

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"1/ Carnegie Endowment for International Peace, The Hague Conventions and Declarations of 1899-1907, New York, Oxford University Press, 1915, pp. 41-81.

such cases, article 23, paragraph 3, shall apply. Before using the powers conferred by the present article with regard to facts which the parties do not seem to have taken into account, the commission shall consult the parties.

"Article 25

"The commission may propose to the parties that they jointly appoint expert advisers to assist them in the consideration of technical aspects of the dispute. If the proposal is accepted, its implementation shall be conditional upon the expert advisers being appointed by the parties by mutual agreement and accepted by the commission and upon the parties fixing the emoluments of the expert advisers.

"Article 26

"If the commission is unable to reach unanimous agreement, it may take its decisions by a majority of votes of its members without being required to indicate the number of votes. Except in matters of procedure, the presence of all members shall be required in order for a decision to be valid.

"Article 27

"1. The commission shall meet at United Nations Headquarters.

"2. The commission may, at any time, request the Secretary-General of the United Nations for advice or assistance with regard to the administrative and procedural aspects of its work.

"Conclusion of the commission's work

"Article 28

"1. On concluding its consideration of the dispute, the commission shall define the terms of settlement which are likely to be acceptable to the parties, unless the dispute involves issues of fact only. In this connection, the commission may hold an exchange of views with the representatives of the parties, who may be heard jointly or separately.

"2. Once the proposed terms of settlement have been drawn up, they shall be communicated by the chairman of the commission in a report to the representatives of the parties, with a request that the representatives inform the commission, within a given period, whether the parties accept them. The chairman may include in his report the reasons which, in the commission's view, might prompt the parties to accept the proposed terms of settlement. The chairman shall refrain in his report from presenting any final conclusions with regard to facts or from ruling formally on issues of law, unless the parties have jointly asked the commission to do so.

"3. If the dispute involves issues of fact only, the chairman shall hand over to the representatives of the parties, once it is complete, a report setting forth the commission's findings in that regard. The proceedings shall be concluded when his report is handed over.

"Article 29

"If the parties accept the terms of settlement proposed by the commission, a document shall be drawn up setting forth those terms. The document shall be signed by the chairman and the secretary. A copy signed by the secretary shall be provided to each party, and this shall conclude the proceedings.

"Article 30

"1. If the terms of settlement are not accepted by both parties and the latter do not wish further efforts to be made to reach agreement on different terms, a document shall be drawn up as stipulated in article 29, but omitting the proposed terms and indicating that the parties were unable to accept them and do not wish further efforts to be made to reach agreement on different terms. The proceedings shall be concluded when each party has received a copy of the document signed by the secretary.

"2. If the terms of settlement are not accepted by both parties but the latter wish efforts to reach agreement on different terms to continue, new proceedings shall be initiated, to which all the provisions of chapters VII and VIII of these rules used in the first proceedings shall apply, except that it shall not be necessary to appoint a new secretary and, if the commission has no objection, the parties may, with respect to the new proceedings, reduce by mutual agreement the time-limit mentioned in article 31.

"Article 31

"Without prejudice to the right of the parties, acting by mutual agreement, and of the commission, to extend the relevant time-limit and the possible application of article 32, paragraph 2, or article 45, the commission shall conclude its work within three months from the date on which, in accordance with article 22, paragraph 1, the initial statements of the parties were made, if it consists of three members, and within five months of that date if it consists of five members.

"Secrecy of the commission's work and of the documents involved

"Article 32

"1. The commission's meetings shall be closed. Members of the commission and its expert advisers, together with representatives, counsel and experts, and the secretary and secretariat staff, shall

refrain from divulging any documents or statements, or any communication concerning the progress of the proceedings, without the prior approval of both representatives.

"2. If any indiscretion occurs during the proceedings, the commission may determine its possible effect on the continuation of such proceedings.

"Article 33

"Except as provided in articles 29 and 30, no decision, statement or communication concerning the substance of the dispute shall be reflected in the minutes of the commission's meetings at which one or both parties were represented.

"Article 34

"1. Certified copies of the minutes of the commission's meetings and of the annexes thereto shall be provided to the representatives through the secretary of the commission, except in the case of the minutes of meetings of the commission to which neither of the parties were invited; the parties shall not receive copies of the minutes of those meetings.

"2. Originals of the minutes of the commission's meetings to which neither of the parties were invited and copies of those minutes in the possession of the secretariat at the conclusion of the proceedings shall be destroyed at that time by the secretary.

"3. Upon conclusion of the proceedings the secretary shall destroy all originals or copies of any written materials submitted in accordance with article 38 that are in his possession.

"4. A certified copy of any document submitted by a party as evidence shall be provided to the other party.

"5. If a party submits an original document as evidence, it shall be entitled to have that document returned to it; a certified copy of the document shall remain in the possession of the secretariat.

"6. The parties shall receive certified copies of the records of evidence drawn from experts' reports, investigations and the questioning of witnesses.

"Article 35

"Except with regard to evidence drawn from experts' reports, investigations and the questioning of witnesses and documentary evidence which the parties may submit in any judicial or arbitral proceedings held after the conclusion of the conciliation proceedings, the obligation to respect the secrecy of the proceedings and of the deliberations shall remain in effect for the parties and for members of the commission, expert advisers and secretariat staff after the proceedings are concluded

and shall extend to the terms of settlement, whether accepted or not, and to any proposals made, whether accepted or not. Except for the documents referred to in article 32, paragraph 1, no document shall be communicated to the public before the conclusion of the proceedings. Upon conclusion of the proceedings, the parties may, by mutual agreement, make available to the public all or some of the documents or authorize the publication of all or some of them.

"Article 36

"Upon conclusion of the proceedings, the chairman of the commission shall deliver the documents in the possession of the secretariat of the commission to the Secretary-General of the United Nations, who shall preserve their secrecy within the limits indicated above.

"CHAPTER VIII

"RULES APPLICABLE TO ALL CONCILIATION PROCEEDINGS CONDUCTED IN ACCORDANCE WITH THESE RULES

"Article 37

"No admission or proposal made or view expressed during the conciliation proceedings by one of the parties, the commission, a member of the commission or the sole conciliator, as the case may be, shall be considered to prejudge or in any way affect the rights or claims of any of the parties should the proceedings fail. Likewise, a party's acceptance of a proposal or terms of settlement in no way implies acceptance by that party of the arguments of law or of fact on which the proposal or terms of settlement may be based.

"Article 38

"1. Any of the parties to conciliation proceedings governed by these rules may provide the sole conciliator or the commission, as the case may be, with comments on situations or facts relating to the dispute and on arguments submitted by the other party, on the understanding that the origin of the comments shall not be revealed to the latter.

"2. Materials in writing submitted in accordance with this article shall not have any evidentiary effect if it affirms or refutes facts.

"Article 39

"The parties undertake that no conciliator or expert adviser who takes part in proceedings conducted in conformity with these rules shall act as a judge ad hoc, arbitrator, representative, counsel or expert of a party in any arbitral or judicial proceedings in respect of the dispute that was the subject of the conciliation proceedings. The parties also

undertake not to present a conciliator or expert adviser as a witness or expert in any such proceedings.

"Article 40

"Each party may at any time, at its own initiative or at the initiative of the sole conciliator or the commission, as the case may be, make proposals for the settlement of the dispute. Any proposal made in accordance with this article shall be communicated immediately to the sole conciliator or to the commission, as the case may be.

"Article 41

"At any stage of the conciliation proceedings, the sole conciliator or the commission, as the case may be, may recommend any provisional measure which should be taken to preserve the corresponding rights of a party.

"Article 42

"At any stage of the proceedings, the sole conciliator or the commission, as the case may be, may draw the attention of the parties to any measures which might facilitate an amicable settlement.

"Article 43

"Neither of the parties shall initiate, during the conciliation proceedings, any arbitral or judicial proceedings in respect of the dispute which is the subject of the conciliation proceedings. Each party may, however, initiate arbitral or judicial proceedings where such proceedings are necessary for preserving its rights.

"Article 44

"The parties shall refrain from any measures which might have an adverse effect on the terms of settlement proposed by the sole conciliator or the commission, as the case may be, until those terms have been explicitly rejected by both or one of the parties. The parties shall also, in general, refrain from any measure which might aggravate or exacerbate the dispute.

"Article 45

"If the sole conciliator or the commission, as the case may be, finds one or both of the parties to be systematically and persistently refraining from extending the co-operation necessary for the satisfactory progress of the conciliation proceedings, impeding those proceedings or violating provisions of these rules, the conciliator or the commission

may terminate the proceedings without proposing terms of settlement or, in the case of a dispute involving issues of fact only, without formulating findings in that regard. If the sole conciliator or the commission, as the case may be, makes use of this power, the conciliator or the commission shall communicate to the parties in writing, in a thorough and precise manner, the reasons why this step has been taken.

"Article 46

"The sole conciliator or, if the conciliation proceedings are conducted by commission, each member of the commission shall receive emoluments in an amount and on terms agreed by the parties who may, if they so wish, request the opinion of the Secretary-General of the United Nations on this matter. The emoluments and the terms of their payment must be fixed before the conciliators are appointed and be communicated to them before they take up office. The same rules apply to the emoluments of the secretary of the commission and any staff he recruits.

"Article 47

"The costs of the conciliation proceedings, including those occasioned by any investigations agreed upon by a commission motu proprio and the emoluments of expert advisers appointed in accordance with article 25, shall be borne by the parties in equal shares.

"Article 48

"The terms of settlement proposed by a sole conciliator or by a commission, as the case may be, shall in no way be binding on the parties with regard to their substance. They shall be simply recommendations submitted to the parties for consideration in order to facilitate an amicable settlement of the dispute. The parties nevertheless undertake to study them carefully and objectively. If one of the parties rejects terms of settlement which the other party accepts, it shall inform the latter, in writing, of the reasons why it could not accept them."

133. The Working Group devoted eight meetings, held between 3 and 7 February 1992, to the consideration of the above proposal, first by exchange of views on the text as a whole, followed by consideration of the proposal article by article.

A. General comments on the proposal

134. It was generally recognized that the proposal of Guatemala was a valuable initiative and that the document was a useful basis for the discussion in the Committee of a subject aimed at contributing to the further development of mechanisms of prevention and peaceful settlement of disputes between States.

135. Among the major issues raised during the general comments on the proposal was whether it was necessary to have one set of rules for a sole conciliator and another set of rules for a conciliation commission, as suggested in the above proposal. It was wondered whether the aim should be to produce detailed rules applicable to any conciliation or to establish a set of flexible model rules which States might use or adapt as appropriate. In this connection, some delegations expressed doubt as to the appropriateness of adding a new text of global scope to the numerous existing instruments of this nature and drew attention to the regional systems of peaceful settlement of disputes which existed or were envisaged at the regional level. Moreover, the draft was generally considered too rigid and too detailed. On the other hand, some delegations viewed the development of such rules to be useful, taking into account the fact that such a set of rules had not, as yet, been developed in some other regions. The question was also raised whether to envisage the linking of the proposed rules to the existing mechanisms for the prevention and peaceful settlement of disputes by the organs of the United Nations.

B. Consideration of the proposal article by article

Chapter I, "Application of the rules", article 1

136. It was generally pointed out that the article attempted unsuccessfully to address a number of complicated issues concerning the scope and nature of the proposed rules. The views ranged from those calling for its deletion to those suggesting that such a provision might be better included in a resolution simply indicating that the rules should be applicable to all kinds of disputes, serving as flexible model rules. The view was also expressed that paragraph 2 of the article should be retained as it was.

Chapter II, "Initiation of the conciliation proceedings", article 2

137. One of the major issues raised with respect to this article was whether to retain its paragraphs 2 and 4 linking the rules to the function of the Secretary-General of the United Nations. There was the view calling for the deletion of the two paragraphs, so as to avoid placing an additional burden on the Secretary-General, and questioning whether the Secretary-General would be in a position to offer assistance to only one party to the dispute. Some delegations supported a proposal that the Permanent Court of Arbitration might be asked to give the necessary assistance and advice. The suggestion was also made that the question of assistance of the United Nations in connection with the application of these rules, as provided in these two paragraphs, would be better dealt with in a resolution and not in the substantive articles. It was generally agreed that the views of the Secretariat concerning the implication of these two paragraphs should be sought. The view of the Secretariat on the matter was presented in the form of a statement by the Legal Counsel in the Working Group as follows:

> "I have been requested to give my advice on whether it would be legally and constitutionally admissible for the Secretary-General to render the assistance and advice provided for in article 2, paragraphs 2 and 4, of the draft "United Nations rules for the conciliation of disputes between States", contained in paragraph 5 of document A/45/742.

"Paragraph 2 provides that the State initiating the proceedings may request the assistance and advice of the Secretary-General for the preparation of the invitation to enter into conciliation. Paragraph 4 provides that the States concerned may jointly request the assistance of the Secretary-General in case they do not agree on the definition of the dispute.

"I would like to note, parenthetically, that other articles of the draft rules envisage the possibility of requesting the assistance of the Secretary-General. The present advice is limited to article 2, but my remarks may be applicable to other articles as well.

"A first general comment I wish to make is that, under the Charter, the Secretary-General is not in a position to give advice of a general nature to individual Member States. The advice and assistance he may render, as chief administrative officer of the Organization, is normally limited to procedural and institutional questions and matters pertaining to the functioning of the United Nations. However, Article 98 of the Charter provides that the Secretary-General shall also perform such functions as are entrusted to him by the principal organs of the United Nations. Consequently, a resolution of the General Assembly which would eventually approve or endorse the rules should clearly authorize the Secretary-General to provide the kind of assistance and advice mentioned in the provisions under consideration.

"Coming now to the individual paragraphs, I note that in paragraph 2 it is one of the parties to a dispute which is entitled to request the assistance and advice of the Secretary-General in preparing the invitation mentioned therein. I also note that one of the points covered by the invitation is the description of the subject of the dispute, which is closely linked with the substantive aspects of that dispute. These aspects raise concerns in regard to the position of absolute neutrality which the Secretary-General must maintain vis-à-vis Member States. This neutrality would be compromised if the Secretary-General rendered assistance to only one of the parties to a dispute for the initiation of proceedings which, even though of a conciliatory nature, are directed against the other parties. The same would be true if the assistance of the Secretary-General goes beyond the procedural and technical aspects and into the substantive and political aspects of the dispute. In this case, therefore, I do not think that it would be admissible for the Secretary-General to accede to such requests in such circumstances.

"In the case of paragraph 4, it is the parties to a dispute who jointly request the assistance of the Secretary-General. This consensual element makes this request different in a qualitative sense from the request mentioned in paragraph 2. Here, the request may be assimilated to a request for the provision of good offices submitted by the parties to a dispute, which would fall within the powers of the Secretary-General under the Charter and would not compromise the neutrality of the Secretariat. It should be stressed, however, that it would be up to the Secretary-General to determine, in each case, the extent to which he can provide his assistance.

"A concluding remark of a general nature, which can be applied to the two paragraphs under consideration as well as to the other rules which foresee the assistance of the Secretary-General, is that the provision of this assistance might have financial implications which would require appropriate action by the General Assembly. In particular, the Secretary-General might have to hire consultants or even establish new posts in order to perform the functions required under the rules. Thus, should this Committee at some point in the future wish to recommend to the General Assembly the adoption of any provision regarding Secretariat assistance, the requisite statement of programme budget implications would be submitted to the Special Committee by the Secretary-General."

138. Apart from specific comments on paragraphs 2 and 4 of article 2, there was the view that the article as a whole was too detailed and that it could be reformulated in one short paragraph. But there was also the view calling for the retention of such detailed provisions for the benefit and interest of parties to the dispute and lawyers. The view was expressed that paragraphs 1 and 3 of the article should be retained.

Chapter III, "Cases in which more than one State has the same interest with regard to the dispute", article 3

139. It was generally felt that this article should be deleted because it raised the difficult question of how to establish that more than two States have the same viewpoint and the same interest in a single dispute.

Chapter IV, "Number of conciliators", article 4

140. It was pointed out that the article should be redrafted so as to allow the parties a free choice of the number of conciliators and to avoid restricting the number of conciliators to those currently specified therein. But the view was also expressed that the article should be retained as it is.

Chapter V, "Appointment of conciliators", articles 5 to 9

141. There was a suggestion to delete article 5 on the grounds that it was too cumbersome, incorporating by reference other instruments, and too complicated in addressing different issues. It was also suggested that this article did not sufficiently take into account the fact that States may be legally bound by some settlement mechanisms, such as regional mechanisms, the procedures of which are binding on them.

142. With respect to articles 6, 7 and 8 under this chapter, it was suggested that the question of who may appoint the conciliators should be treated more broadly and should include appointment by the Secretary-General of the United Nations, by the Secretary-General of the Permanent Court of Arbitration and by the parties themselves, and to avoid giving preference to appointment by a third State. Alternative formulations could be presented in this connection. With respect to article 6, it was also remarked that the requirement that conciliators shall not reside or have resided habitually in the territory of the parties seemed excessive. But there was also the view that the three articles should be left as currently drafted.

143. With respect to article 9, a suggestion was made that the text be amended so as to clarify who should establish the incapacity of a conciliator. The view was also expressed that the article should be retained as it is.

Chapter VI, "Rules applicable to conciliation by a sole conciliator", articles 10 to 16

144. With respect to this series of articles, there was a general observation that they should all be reviewed, taking into account the basic question as to whether it is necessary to have separate rules for a sole conciliator, as distinguished from the rules for a conciliation commission dealt with in articles 17 to 36 of the proposal. Since this general question remained unsettled, only a few specific comments were made with respect to articles 10 to 16.

145. With respect to article 10, there was a suggestion that its second sentence be clarified, especially the meaning of principles of objectivity, fairness and justice. The view was also expressed that article 10 should be retained.

146. As to article 12, the suggestion was made to rewrite paragraphs 2 and 4 of the text and to delete paragraph 5. It was also suggested that article 12 could be combined with articles 11 and 22 to produce flexible provisions, underlining the need for simplifying the provisions of the articles dealing with a sole conciliator (articles 10-16), a commission (articles 17-36) and rules applicable to all conciliation proceedings (articles 37-48).

147. With respect to article 13, it was suggested that the text be clarified and simplified since it was considered to be too detailed and too complicated in attempting to address different issues such as secrecy of documents and of conciliation proceedings, the indiscretion of conciliators and the deposit or destruction of materials relating to conciliation.

148. It was suggested that articles 14 and 15 should be reformulated, since the cross-references to other articles contained in their text made their provisions too cumbersome. It was also suggested that the time-limits established for the procedures described therein should not be too rigid.

149. With respect to article 16, comments were made similar to those expressed in connection with paragraphs 2 and 4 of article 2, as summarized in paragraph 6 above, concerning the question of linking these rules to the United Nations. A view was also expressed that, because of the confidential nature of the conciliation process, it would be inappropriate to involve the Secretary-General in it. There was also the view that article 16 should be deleted.

Chapter VII, "Rules applicable to conciliation by commission", articles 17 to 36

150. With respect to this series of articles, the same issue was raised concerning the possibility of putting them together with articles 10 to 16, so as to harmonize the functions of a sole conciliator and a commission. There were, in addition, specific comments expressed in connection with each of the articles under this chapter.

151. With respect to article 17, a suggestion was made to mention therein the principles of international law applicable to conciliation; to specify the content of the terms of settlement referred to in the last sentence; to change the word "shall" to "may" in the last sentence of the text; and to consider placing article 17 after article 18 or to combine them in a single provision.

152. As to article 18, a suggestion was made to add therein reference to "the general principles of international law" and "treaty obligations of the parties". But there was also the view that there was no need to suggest such additions, since the article already referred to the rights and obligations of the parties under international law.

153. With respect to article 19, the suggestion was made that it could be redrafted to state more clearly that the commission retains the option of adjusting its own procedures when applying the proposed rules, and also that the parties to the disputes also have the right to change the procedures.

154. As to article 20, the following suggestions were made: to delete paragraph 1 of the article as too detailed; to retain it but, in its second sentence, change "in agreement with" to "in consultation with" in order to remove the possibility of parties to the dispute halting the conciliation process. There was also the suggestion to delete paragraph 2 as a whole, and another to retain it but to omit the word "first" in the first line. The view was also expressed that paragraph 1 should be retained as it was.

155. With respect to article 21, it was suggested that it should be brought in line with the original Spanish text by replacing the words "counsel and experts" with "adviser" to cure the defects pointed out by several speakers on the text in that connection.

156. As to article 22, several views were expressed. There was the view that all the paragraphs referring to the secretary of the commission should be combined. There was also the view that all such provisions should be deleted, since there might be no need to provide for an appointment of the secretary. The question was further raised whether it was appropriate to appoint a secretary who was an official of the United Nations. This was considered an important question, since parties to the dispute may not be Members of the United Nations. Thus, the question of linking these rules to the United Nations was raised again. Other suggestions were for the deletion in paragraph 1, third sentence, of the phrase "whether the parties should be invited to submit written statements and in what order"; to consider whether to retain in paragraph 2 reference to the nationality of the secretary; and to delete in paragraph 3 the opening phrase "Except as provided in article 28, paragraph 1".

157. With respect to article 23, there was the view that paragraph 2 as a whole should be deleted or that the word "shall" in the first sentence should be changed to "will". As to paragraph 3, the main difficulty was its reference to articles 19 to 29 of the Hague Convention for the Pacific Settlement of International Disputes of 18 October 1907. Some delegations pointed out that such a reference should be avoided and that the aim should be to produce a set of self-contained rules. Others objected to the reference to the articles or to placing them in an annex, as had been suggested, on the grounds that some of them might be outdated and that not all the Member States

were parties to it. There was also the view in favour of retention of paragraphs 2 and 3. Yet, a suggestion was also made to delete paragraph 3.

158. As to article 24, two suggestions were made: to delete the article as irrelevant to conciliation functions of the commission; and to replace the term "motu proprio" by the expression "with the agreement of the parties".

159. As to article 25, there was a suggestion to delete the whole article, since it was considered an example of an attempt to address too many details in these rules. It was not clear whether the category of experts mentioned therein was essential. Alternatively, it was suggested that the article could be modified and retained. It would be corrected to clarify the issue of emoluments of the expert advisers and to redraft the first sentence by substituting in the languages other than Spanish the expression "assist them" to "assist it". The view was also expressed that article 25 should be retained as it is.

160. With respect to article 26, the point was made that it should be redrafted so as to avoid emphasis on the decision-making procedures of the commission, which were expressed in a complicated and unclear manner. The article should concentrate instead on encouraging the commission to make efforts to arrive at recommendations acceptable to the parties.

161. As to article 27, the first major issue was that it raised the basic problem of the link between the rules and the United Nations. Its paragraph 1 was considered by some as inappropriate. There was on the one hand a suggestion to delete the article, and on the other, not to do so, without clarifying the question of the link between the rules and the United Nations.

162. With respect to articles 28 and 29, there was a general view that the articles should be redrafted so as to avoid purely technical and therefore irrelevant details contained in their texts and to make their provisions more precise. There was moreover a suggestion to delete reference in paragraph 2 of article 28 to the possibility for the chairman to indicate in his report the reasons which, in the commission's view, might prompt the parties to accept the proposed terms of settlement.

163. With respect to article 30, the view was expressed that its paragraph 2 should be modified so that it would not suggest the beginning of a new proceeding, as it could be interpreted in its current form, but it would speak of a continuation or resumption of proceedings. It was also suggested that the text be brought in line with the Spanish original version by changing the phrase "not accepted by both parties" to "not accepted by each party".

164. As to article 31, it was suggested that its text should be modified so as to establish a single time-limit for the conclusion of the work of the commission irrespective of the number of its members. In this connection, specific suggestions to extend this time-limit to six months or to leave this issue to the discretion of the parties to the dispute were also made.

165. With respect to article 32, there was the view that it was necessary to simplify the text and to deal with the idea of confidentiality in a short sentence. There was also the suggestion to delete paragraph 2, or to transfer its content to the article dealing with the competence of the commission.

166. With respect to article 33, the view was expressed that the article was unnecessary and that it should be deleted.

167. As to article 34, it was generally felt that its paragraphs were too rigid and that the issues they addressed were better left for the commission to decide. It was pointed out further that its paragraphs 3 and 5 were contradictory. The view was also expressed that paragraph 3 should be deleted.

168. With respect to article 35, the view was expressed that its provisions should avoid excessive emphasis on the secrecy of the proceedings, and that this issue should be left to the discretion of the parties. There was also a suggestion not to introduce changes in its text.

169. As to article 36, the view was expressed that it was not necessary to deposit all documents relating to conciliation with the Secretary-General of the United Nations. What could be deposited with the Secretary-General was the final report containing conclusions. But there was also the view that nothing should be deposited with the Secretary-General and that any such materials should be left with the parties to the dispute.

Chapter VIII, "Rules applicable to all conciliation proceedings conducted in accordance with these rules", articles 37 to 48

170. As to article 37, there was the view that its provisions were not justified in terms of law and that the article as a whole should be deleted. However, the suggestion was made that the whole article or at least its first paragraph should be retained in order to encourage the parties to the dispute to follow the recommendations of the commission.

171. A suggestion was also made for the deletion of article 38, taking into consideration arguments in favour of the deletion of article 37.

172. As to article 39, the view was expressed that the issue whether the representatives of the parties could participate in arbitral or judicial proceedings at a later stage, after the conciliation proceedings were completed, should be left to the discretion of the parties. There was also a suggestion that this article should be deleted on the grounds that it was unnecessary and contradictory.

173. With respect to article 40, there was the view that the article expressed the obvious, it did not add anything to the rules and it should thus be deleted. However, one delegation supported its retention.

174. As to article 41, it was pointed out that it addressed the issue (provisional measures) which was usually associated with judicial proceedings and not with conciliation. While there was a suggestion to delete it on these grounds, there was the view that the idea behind the article should be retained and that there should be a rule requiring the commission to make recommendations to the parties not to take any action to exacerbate the dispute pending its settlement. The remark was also made that article 41 as currently drafted was unnecessary, taking into account the provisions of article 42. There was also the view that article 41 should be combined with article 42.

175. As to article 43, the view was expressed that the article should be redrafted to delete its second sentence in order to avoid the contradiction with the basic rule stated in its first sentence. In this connection, it was pointed out that the French text should be brought in the line with the original Spanish text, which begins by "Neither of the parties". There was also a suggestion to change the word "shall" to "should" in the first sentence.

176. With respect to article 44, it was pointed out that it addressed issues similar to those dealt with in article 42 and that the two articles could be combined. There was also the suggestion that the main idea of the article, namely that of the obligation of the parties to a dispute to refrain from any action which might aggravate or exacerbate the dispute, should thus be reformulated and placed in the first chapter of the rules. It was also pointed out that the first sentence of the French text of the article should be brought in line with the original Spanish text, changing the phrase "rejected by both parties" to "rejected by both or one of the parties".

177. As to article 45, there was a suggestion that the article should be deleted since it was considered unnecessary and unrealistic. But there was also the view that it should be retained in a modified form by deleting the phrase "systematically and persistently" in the first sentence. Instead it was suggested that the principle of good faith should be underlined as a fundamental principle of conciliation, at the very beginning of the rules.

178. With respect to article 46, a suggestion was made to combine its provisions with those of article 47, deleting unnecessary details in the articles. It was pointed out that there was no need to seek the opinion of the Secretary-General of the United Nations on the question of the emoluments in terms of their payments. The view was also expressed in favour of deletion of article 46.

179. As to article 47, it was suggested that the text of the article should be further clarified to provide that the emoluments of expert advisers assisting the parties at their request should be borne by those parties. A view was also expressed in favour of the deletion of the words "in equal shares" at the end of article 47.

180. With respect to article 48, the point was made that its first sentence was unnecessary since the main idea was accurately expressed in the second sentence, reflecting the general rule contained in the Vienna Convention on the Law of Treaties. There was also a suggestion to amend the last sentence by stating the time-limit within which a party to the dispute might reject terms of settlement and by stipulating that such rejection should be made known to the Chairman and not to the other party and they need not be made only in writing. The suggestion was also made that the third sentence of the article should call upon the parties to cooperate in the spirit of good faith instead of asking them to study the term of a settlement carefully and objectively.

181. It was generally agreed that it was premature at this stage to discuss the question of the form of the proposed rules. It was observed that, whatever instruments were chosen to embody the proposed rules, mention should be made therein of the Charter of the United Nations and of all the relevant

declarations and resolutions adopted by the General Assembly of the United Nations relating to the prevention and peaceful settlement of disputes between States. According to this view, this would allow the formulation of the conciliation rules to be undertaken in a broader context (including underlining the importance of the application of conciliation procedures at a regional level) than the context of the original proposal by Guatemala. In this connection, a question was also raised as to whether the final product would also contain explanatory commentary on the application of the rules as found in annex II of the original proposal.

182. Upon the completion of the first reading of the draft rules, the Working Group took note that the delegation of Guatemala offered to prepare and submit, at a later stage, by the next session of the Special Committee at the latest, a revised draft of its proposal, taking into consideration the comments made on the various articles as summarized in the present report.

V. COMMUNICATIONS ADDRESSED TO THE CHAIRMAN ON ISSUES BEARING UPON THE WORK OF THE COMMITTEE

Statement of the Rapporteur

A. United Nations Decade of International Law

183. At the 153rd meeting of the Special Committee, the Chairman informed the Committee of the letter dated 28 January 1992 from Mr. Carl-August Fleischhauer, Under-Secretary-General, the Legal Counsel, drawing the attention of the Chairman to General Assembly resolution 46/53 of 9 December 1991, and to certain paragraphs of the programme of activities to be commenced during the first term (1990-1992) of the United Nations Decade of International Law which related to the mandate of the Special Committee.

184. The Chairman informed the Committee of his intention to respond to the letter by pointing out that the Committee had already made a concrete contribution to the United Nations Decade of International Law when it approved the draft Handbook on the Peaceful Settlement of Disputes between States and the draft Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security. The Committee hoped to make further contributions to the programme of the Decade through the discussions of the topics in its current mandate.

B. Committee on Conferences

185. At the 164th meeting of the Special Committee, the Chairman informed the Committee of the letter dated 14 February 1992 which he had received from the Chairman of the Committee on Conferences, drawing the attention of the Special Committee to the recommendations and conclusions contained in document A/AC.172/88/Add.9 which the Committee on Conferences had discussed at its last session, relating to the utilization of resources by the Special Committee.

186. The Chairman informed the Special Committee of his intention to reply to the letter by advising the Chairman of the Committee on Conferences that the Special Committee would continue to do its utmost to improve its utilization of the conference-servicing resources and that, in that respect, all the recommendations contained in the letter would be taken into consideration when planning the work of the Special Committee. He would also inform the Chairman of the Committee on Conferences that it was the practice of the Special Committee to hold informal consultations on how best to organize its work in the pre-session and in-session periods in order to make maximum use of the conference services allocated to it. It was also the practice of the Committee to use the time remaining at any of its scheduled meetings for informal consultations to facilitate general agreement on matters at hand. Such a practice had enabled the Committee to complete successfully a number of important documents and instruments in the discharge of its mandate.

Notes

1/ For the list of members of the Committee at its 1992 session, see A/AC.182/INF/17.

2/ Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 33 (A/36/33), para. 7.

3/ The Committee was also informed of the request for observer status submitted by certain non-member States and organizations, but it was felt that the matter raised issues requiring further consideration.

4/ Official Records of the General Assembly, Forty-fifth Session, Supplement No. 33 (A/45/33).

5/ See Official Records of the General Assembly, Forty-sixth Session, Supplement No. 33 (A/46/33), para. 14. As stated by the Chairman at the 158th meeting of the Special Committee, the representative of Libya did not insist on the consideration of this working paper at the current session owing to the heavy workload of the Special Committee.

6/ S/23500.

7/ See Official Records of the General Assembly, Forty-sixth Session, Supplement No. 1 (A/46/1).

8/ Official Records of the General Assembly, Forty-sixth Session, Supplement No. 33 (A/46/33).

9/ General Assembly resolution 46/59.

10/ The relevant articles of the cooperation agreement between the Organization of African Unity and the United Nations were mentioned.

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